

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

WILLIAM RICHARDSON, INDIVIDUALLY AND ON BEHALF OF
SEANESEE RICHARDSON AS HIS LEGAL GUARDIAN AND
PARENT, and SEANESEE RICHARDSON

CIVIL ACTION FILE NO:
7:19-CV-00015-HL

VERSUS

JURY DEMANDED

FIAT CHRYSLER AUTOMOBILES (FCA) US, LLC,
DAIMLERCHRYSLER AG, CHRYSLER, LLC, CHRYSLER
GROUP, LLC, KIMBERLY RICHARDSON, and JOHN DOE

DEPOSITION OF **NATHAN DORRIS, Ph.D, 1360**
PEACHTREE NORTHEAST, SUITE 1150, ATLANTA, GEORGIA
30309, TAKEN VIA ZOOM, ON FRIDAY, THE 26TH DAY OF
FEBRUARY, 2021, COMMENCING AT 9:00 A.M. (CST).

REPORTED BY:

MICHELLE VIDRINE-CORONA, CCR

CERTIFIED COURT REPORTER

Exhibit B

1 APPEARANCES:

2
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4 ATTORNEYS AT LAW

5 BY: CALEB H. DIDRIKSEN, ESQ.

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9 (ATTORNEYS FOR WILLIAM RICHARDSON, ET AL)

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S T I P U L A T I O N

IT IS STIPULATED AND AGREED by and between counsel for the parties hereto that the deposition of the aforementioned witness is hereby being taken under the Federal Rules of Civil Procedure, for all purposes, including perpetuation, in accordance with law;

That the formalities of reading and signing are specifically NOT waived;

That the formalities of sealing, certification and filing are specifically waived;

That all objections, save those as to the form of the question and the responsiveness of the answer, are hereby reserved until such time as this deposition, or any part thereof, may be used or sought to be used in evidence.

* * * * *

MICHELLE VIDRINE-CORONA, Certified Court Reporter, in and for the Parish of Orleans, State of Louisiana, officiated in administering the oath to the witness.

1 COURT REPORTER:

2 My name is Michelle Corona. I am a
3 Louisiana certified stenographic court reporter.

4 Before we proceed, will all counsel
5 agree that there is no objection to this reporter
6 administering a binding oath to the witness
7 remotely?

8 MR. BOORMAN:

9 No objection for FCA.

10 MR. DIDRIKSEN:

11 No objection on behalf of
12 plaintiffs.

13 **Dr. Nathan Dorris,**
14 after having been first duly sworn by the
15 above-mentioned court reporter, did testify as
16 follows:

17 EXAMINATION BY MR. DIDRIKSEN:

18 Q. Mr. Dorris, can you please state your
19 full name and your address, where you are today,
20 for the record?

21 A. My name is Nathan Dorris, spelled
22 D-O-R-R-I-S. I am located today in an office in
23 1414 Eastbrook Bend, Peachtree City, Georgia.

24 Q. Whose office is that?

25 A. I've rented it.

1 Q. How long have you rented it?

2 A. I think it was right before the
3 pandemic. So I've had it probably a little more
4 than a year, something like that.

5 Q. How many people occupy the office with
6 you?

7 A. Just myself.

8 Q. So it's in an office suite sort of
9 arrangement?

10 A. Yes, sir. I was politely told by my
11 wife I was not allowed to work at home.

12 Q. Ah, okay. Well, has having the remote
13 office been helpful in that regard?

14 A. It has, you know. My main goal is to
15 stay out of trouble at home. But, yes, it was
16 very fortune timing that somehow we had this
17 arrangement before the pandemic, and it's worked
18 really well given kind of our current
19 circumstances.

20 Q. Yes. How many kids do you have?

21 A. I have two; a stepdaughter who is older,
22 and a boy with my wife.

23 Q. How old is your son?

24 A. He is 13, about to be 14.

25 Q. So that can be an interesting age?

1 A. Agreed.

2 Q. I think that -- I have a daughter who is
3 13, and I find this pandemic has been especially
4 challenging for the combination of parents and
5 children of that age bracket?

6 A. I would be willing to agree with that.
7 I can only imagine, it's probably harder for a
8 13-year-old girl. My 13-year-old son would be
9 happy to be locked up with an Xbox, but imagine
10 girls, having had a daughter, they're a little
11 more interested in being social perhaps.

12 Q. Yes. All right. So your -- you're not
13 a medical doctor, are you?

14 A. No, sir.

15 Q. And you're not an expert in
16 biomechanics, are you?

17 A. Correct. I would not offer any opinions
18 from a biomechanical standpoint.

19 Q. And you don't consider yourself an
20 expert in writing, do you?

21 A. I think in the area of writing
22 instructions, I certainly have expertise. I
23 wouldn't say I'm a published author in the sense
24 of writing novels or fiction. But in writing
25 technical writing, manuals, warnings,

1 instructions, that's certainly an area that I
2 have experience and expertise.

3 I can't hear you, sir.

4 MR. BOORMAN:

5 Caleb, I think you're muted and
6 freezing.

7 BY MR. DIDRIKSEN:

8 Q. I'm sorry. I'm sorry. I had muted
9 myself, but I was getting feedback. And you --
10 your speech was slowed down by the electronical
11 process.

12 (Discussion held off the record.)

13 BY MR. DIDRIKSEN:

14 Q. Mr. Dorris, please try and say that
15 answer over again and I'll mute myself.

16 You know, you asked a question whether
17 this had been working, and now, of course, it's
18 not working very well. Try and give your answer
19 again.

20 A. I'll do my best. I think you asked if I
21 had expertise in writing, and I said yes as it
22 relates to technical writing. So writing of
23 safety communications, warnings, owner's manuals.
24 That's an area where I have experience and
25 expertise. You know, I wouldn't broaden that out

1 and say I'm an expert in writing, you know,
2 fiction or something along those lines. But in
3 kind of what we would think of as technical
4 writing, manuals, maybe training materials,
5 warnings and safe-related communications, I would
6 say, yes, I have expertise and experience in that
7 area.

8 Q. Your only degrees are in engineering,
9 correct?

10 A. My graduate degrees. My master's and my
11 Ph.D. are both in industrial engineering. My
12 undergraduate degree was in management from
13 Georgia Tech.

14 Q. I received an engineering degree as
15 well, and in my own experience going to
16 engineering school, and probably the least
17 literate group of people in the whole university
18 because of lack of education provided on writing,
19 was the engineers. Is that a fair assessment of
20 how the world turns in the universities today?

21 MR. BOORMAN:

22 Object to the form. Vague.
23 Speculation.

24 Answer if you can.

25 THE WITNESS:

1 I mean I don't think I would agree
2 with that characterization. I think that
3 particularly graduate students engineering, they
4 do a lot of writing. They do a lot of technical
5 writing, they do a lot of writing for grants and
6 proposals and publications. So it may be
7 technical more so than, you know, literature like
8 you would probably see in the English department,
9 but I think there is a lot of writing. You know,
10 we spend a lot of time, at least in my program,
11 in graduate school, we talked about those sort of
12 things. We reviewed publish literature. We kind
13 of had a thing as a part of graduate we called
14 journal club where we would go through journal
15 articles. We would learn how to read them and
16 talk about them and analyze them. We would talk
17 about writing our own and publishing. So I think
18 there is clearly a distinction between, you know,
19 the academic programs in the English department
20 and engineering. But I would say there is
21 emphasis on technical writing, generally with
22 engineers. But certainly in my experience in the
23 industrial engineering department, and in
24 particular, when you focus on human machine
25 interface or human factors and you look at how do

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1 people relate to and understand instructions or
2 training material, I think you end up dealing
3 with that quite a bit.

4 BY MR. DIDRIKSEN:

5 Q. Do you agree that technical writing is
6 different than writing for newspapers and TV?

7 A. I would think so. I mean there may be a
8 general media, I think that's probably a little
9 bit different. There may be some journal kind of
10 magazines or articles that are more technically
11 oriented. But generally when I talk about
12 technical writing, it would be things like
13 product-accompanying literature, manuals, you
14 know, catalogs perhaps, training materials, more
15 so than like a newspaper or kind of broadly
16 circulated magazine.

17 Q. Have you written any portion of any
18 instruction manual?

19 A. Yes. I've worked on manuals as well as
20 other kind of safety communication warnings
21 labels and things for a wide variety of clients
22 across a wide variety of products. I've done
23 that kind of work, yes, sir.

24 Q. Please list for us some of the products
25 that you recall having written instructions on.

1 And for the purpose of this question, I'd like to
2 distinguish between instructions and warnings.
3 So I'm asking only about instructions.

4 A. Well, just make sure you clarify -- I
5 mean your first question I guess was manual. And
6 so in a manual, there may be safety-related
7 information. So, for example, I would
8 characterize instructions about -- in this case,
9 about, you know, instructions about jacking up a
10 car. In my mind, that is all safety-related
11 information.

12 So I just want to make sure I'm
13 understanding how you're distinguishing warnings
14 and instructions, I guess.

15 Q. All right. Let's discuss what is the
16 difference in your mind between instructions and
17 warnings.

18 A. There's not always a clear distinction.
19 You know, it could be how it is presented or
20 formatted. So in one discussion, authors may say
21 if you format with highlighting or -- or excuse
22 me, you highlight information with formatting
23 conventions, like a panel or a signal word like
24 "danger" or "warning," that that may be trying to
25 highlight it as what we might call a section or

1 highlight safety message or warning in a manual
2 versus not using those highlightings that, you
3 know, that in that discussion somehow may
4 distinguish and say those are instructions not
5 warnings. I think you should look at the
6 content. So if the content is truly safety
7 related, even though it's written as procedure or
8 step-by-step set of instructions, I think it's
9 still communicating safety information. And I
10 think many people may call that warnings as well.
11 So I think you have to kind of come up with an
12 operative definition that is used, you know, for
13 a discussion. But it may not be universal. And
14 so from one article to another, they may not
15 agree on how they're distinguishing between
16 warnings and instructions.

17 So I guess in my experience what I'm
18 saying is, that it really depends on what is the
19 conversation or what's the article or information
20 you're looking at.

21 Q. All right. Well, so for the purposes of
22 today, I'd like to ask you to supply us with an
23 operative definition of warning or warnings so
24 that I will know when you say warnings today in
25 the deposition, what you're intending to mean.

1 A. I think that what I would say is that a
2 warning is a safety-related message that is
3 intending to either induce a certain pattern of
4 behavior, so things to do, or discourage
5 behavior, things not to do, to prevent personal
6 either injury or property damage.

7 So I would use "warning" -- and I think
8 generally I try to use it in a broad sense, any
9 safety-related message. But if you would like
10 to -- you know, I will try to distinguish -- I
11 don't know that it will be necessary today, but
12 if there is some information that we're talking
13 about that we need to distinguish in an
14 instruction from a warning, you know, I can
15 certainly try to do my best to make sure I'm
16 clear about that with you. But I would say a
17 warning or safety message is a commonly used
18 definition, would be a message intended to reduce
19 the risk of injury by encouraging safe behavior
20 and discouraging unsafe behavior. And that could
21 be either physical injury or property damage.

22 Q. All right. So for the purposes of
23 today, I did my best to be a good
24 transcriptionist of your answer as to how define
25 warnings for today. And it seemed to me you gave

1 two separate but very related definitions. The
2 first one was that it would be safety-related
3 messages of things to do or things not to do to
4 avoid personal injury or property damage. Did I
5 say that about right?

6 A. I think that's fair. I think most
7 descriptions, I think, would be consistent with
8 that.

9 Q. And for the second one which was very
10 similar about with the middle things was,
11 warnings would be safety-related messages to
12 encourage safe behavior or to discourage unsafe
13 behavior again to avoid personal injury or
14 property. Was that your other definition?

15 A. Well, in my mind -- I believe what I
16 said was, in my mind that is the same definition.
17 And I was going to say that, you know,
18 encouraging safe behavior, those are usually to
19 do -- things to do. And my example, you know,
20 discouraging unsafe behavior are things not to
21 do.

22 Q. All right. So is it fair then for the
23 rest of today that I would understand when you
24 talk about warnings that were working with that
25 that definition?

1 A. Yes, sir.

2 Q. And then how would you define
3 instructions? Because here is the reason why I'm
4 asking you to define it at this time, that in
5 your report, at least, you refer at various times
6 to instructions and to warnings as though they
7 have some separate characterization, and I
8 understood your prior answer to say that there
9 are certainly is interplay and bleed-over between
10 the two. But for the purposes of today, I'd like
11 to know how we will define instructions.

12 A. I think what you're describing is
13 correct. You can have information that would
14 both be considered an instruction and a warning
15 or a safety message. So you could have an
16 instruction that does not relate to safety. So
17 there could be instructions that don't relate to
18 safety in any way, and so I wouldn't characterize
19 that as a safety message or warning, but you
20 certainly can have instructions that relate to
21 safety. And so, you know, in my mind, it's
22 perhaps a difference without a true distinction
23 or vice versa.

24 But an instruction is generally
25 characterized as information to either inform or

1 describe actions. So I am trying to instruct you
2 either to understand a concept or to perform an
3 action or it could be, you know, avoiding certain
4 interactions. So, you know, unfold this part --
5 you know, you could have instructions about how
6 to take a piece of cardboard and fold it into a
7 box, for example. There may or may not be
8 anything related to safety in that, it could be
9 purely instructional in nature.

10 Q. Okay. Yes, I have to remember to unmute
11 myself each time to make it so the court reporter
12 can hear you clearly.

13 So then I had asked you -- well, just
14 for clarity of our record then, when we talk
15 about instructions today, that instruction
16 definition includes some additional information
17 to inform or describe actions to take or to avoid
18 in addition to warnings and sometimes including
19 warnings so that instructions are -- is under
20 these definitions, a larger set of words than
21 warnings are, because warnings are potentially
22 part of the instructions but are not all the
23 instructions. Is that fair?

24 A. I'm not sure I would fully agree with
25 that.

1 Q. Please go ahead and describe in detail
2 what you mean by that.

3 A. I think I agree with you that, you know,
4 you could have something that is an instruction.
5 So if you think of -- maybe the best way to
6 describe it, is if you think of a Venn diagram
7 overlapping circles, you could have information
8 that is a warning and may not be an instruction,
9 you can have information that is both a warning
10 and instruction, and you could have information
11 that is the just an instruction. And I think
12 what's distinguishing those is, does it pertain
13 or relate to safety?

14 Q. Thank you. So it would be your
15 definition of warnings would always relate to
16 safety to some degree?

17 A. Yes, sir.

18 Q. And your definition of instructions
19 would sometimes include instructions that relate
20 to safety but other times would be instructions
21 that do not necessarily relate to safety,
22 correct?

23 A. Yes, I think when we're talking about in
24 general about, you know, categories of
25 information, I would agree.

1 Q. All right. So then using those -- your
2 own definitions, are there any occasions that you
3 recall today where you worked for some company to
4 provide instructions that were not mostly warning
5 base?

6 A. I don't think that I have worked on a
7 project where the bulk of a manual that we worked
8 on was not safety-related, at least I can't think
9 of one as I sit here. I think it's more an
10 emphasis -- an interest is, are we communicating
11 safety information correctly, is usually when I'm
12 involved. Oftentimes there is kind of a
13 prototype or a straw man that exist that I'm
14 being asked to evaluate, not always, but probably
15 most commonly. And I would say most commonly,
16 you know, the scope of the assignment is an
17 interest in safety-related communications. And I
18 think that -- you know, I guess I can't think of
19 a project as I sit here that was exclusively or
20 the preponderance was nonsafety, and I can't
21 thing of one that I would say necessarily, you
22 know, the vast majority was safety only and not
23 -- not including some instructions, you know,
24 that were perhaps not safety-related when we're
25 talking about a manual or document that

1 accompanies a product, you know, if that's what
2 we're talking about.

3 Q. All right. So you had said you had
4 worked for various companies working on their
5 documentation that would accompany a product.
6 What companies can you recall working for in that
7 fashion?

8 A. Well, I've got nondisclosure agreements
9 that I'm not allowed to identify my client by
10 name or clients by name, but I can, you know,
11 generally kind of talk about categories or
12 products, I think, in a broad sense.

13 Q. Okay. Please answer with your own
14 restrictions.

15 A. I am sure that I cannot recall, you
16 know, a complete list, but it has really run the
17 gamut in terms of types of products that I have
18 dealt with. It has included large, heavy
19 equipment from heavy trucks to construction
20 equipment, things used in demolition of
21 buildings, all kind of types of mobile equipment.
22 I've been involved and looked at projects that
23 have involved machinery used in factories, I have
24 had a range of different types of tools. So some
25 power tools, some nonpowered tools, you know,

1 more like hand tools, and I've worked with
2 manufacturers as well as trade associations, and
3 those could be potentially -- some of those would
4 be, you know, probably more industrial in nature
5 not used by homeowners, and some of those would
6 potentially could be used either in an
7 occupational setting or in a homeowner/consumer
8 situation. Had things like common household
9 products, like -- I had a project that involved a
10 home oven or range, I've had projects that
11 include other things for consumer use, like one
12 would be categorized as a home healthcare device.
13 I've had law enforcement equipment of various
14 types. I've have done training with various
15 different companies come in and talk about
16 warnings and safety communications and organizing
17 product information and those kind of trainings a
18 variety a of different manufacturers. I've had
19 children's products as well. So, you know, could
20 be things that you use with a child, so kind of
21 like a juvenile product is usually the category
22 they call it, kind of like strollers and those
23 kinds of things.

24 Q. For purposes of the answer that you're
25 giving us, are you including litigation-related

1 services?

2 A. No, sir.

3 Q. All right. Go ahead.

4 A. I guess I understood the question to be
5 working on design projects outside of litigation;
6 is that right?

7 Q. That was my intent. I wasn't sure that
8 I worded my question properly to get that answer.

9 A. Yes, sir. That's how I've been
10 answering it. So I think I mentioned kind of
11 children's products. I've had some that were
12 children's toys, so like little riding scooters,
13 that kind of thing. I've had bicycles. So maybe
14 adults or children potentially that can ride on
15 bicycles.

16 So I mean those are kind of the
17 categories that come to mind or examples that
18 come to mind. I'm sure that's not an exhaustive
19 list. It really has run the gamut, you know,
20 from kind of industrial or occupational products
21 to potential consumer products and household kind
22 of type products.

23 Q. During the last calendar year, say 2020,
24 what percentage of your time was spent in
25 litigation support?

1 A. It probably was -- it's probably higher
2 than usual, a number of -- you know, but it's
3 been an odd year, obviously 2020. So I'm trying
4 to think back. I would say it was probably
5 higher than typical because litigation work was
6 able to kind of continue in this way and some of
7 the other projects I think may have been put on
8 hold and we weren't doing as much. So I would
9 say maybe 85/90 percent. But that's just purely
10 a guess. Without going back, you know, and
11 trying to refresh myself, it's just a guess.

12 Q. And how in -- in 2020, how did you use
13 the other 10 to 15 percent of your time?

14 A. Other projects, but we did continue on
15 some consulting projects that were in process and
16 we were finishing. But we've had a few that kind
17 of went on hold and they're considering, I think
18 -- or getting ready to start back up. I think,
19 you know, the pandemic kind of affected a lot of
20 manufacturers.

21 Q. So during 2020, you'd say you spent 10
22 to 15 percent of your time finishing consulting
23 projects for manufacturers?

24 A. That's just my best guess, as I sit
25 here. I mean it's -- you know, it's not based on

1 any documentation, it's just kind of a guess.

2 Q. Sure. What percentage of your
3 litigation support is done for defendants as
4 opposed to plaintiffs?

5 A. Currently, I think I would say the
6 majority -- I think I have one or two cases open
7 currently where I've been retained by an attorney
8 representing a plaintiff, and then the remainder
9 would be someone representing either a defendant
10 or maybe a third-party defendant.

11 Q. How many open cases do you have
12 approximately?

13 A. It's probably in the range of 65 to 75,
14 something like that. However, you know, again,
15 that's just kind of an approximation in terms of
16 open, active cases. I guess I'm just trying to
17 qualify that obviously not everything is
18 necessarily active, everything has kind of gotten
19 delayed because of COVID, but probably something
20 in that range.

21 Q. Sure. Have you maintained a similar
22 book of business of 65 to 75 cases that are open
23 over the last five or ten years?

24 A. I would think so, yes, sir. I mean
25 something in that ballpark. Things are kind of

1 always opening or closing, so it may, you know,
2 go up or below that at different points, but
3 that's probably a fair, you know, guess.

4 Q. Would you say the vast majority of your
5 cases over the last five to ten years have been
6 historically been working for lawyers
7 representing defendants or third-party
8 defendants?

9 A. Yes, I think it's probably something in
10 that 85 to 90 percent, you know. It probably
11 would depend on the time frame, but I would
12 characterize it as the majority for sure.

13 Q. I mean right now if you have one to two
14 cases for plaintiffs, what are your two cases for
15 plaintiffs that you recall at this time? What
16 sort of scenario would they present?

17 A. I don't think that I've been disclosed
18 in either of those, so I probably would not like
19 to not answer that.

20 Q. Were they automotive cases or other
21 product-based cases?

22 A. Other.

23 Q. So if we use your higher number, the two
24 cases for plaintiffs, and I'll use your lower
25 number of total number of 65 cases and divide 2

1 by 65, we come out with about 3 percent of your
2 work currently would be plaintiff-oriented?

3 A. I mean I'm not disputing the math, I
4 haven't done it in my head. But, yeah, I mean
5 those are just my best recollection and kind of
6 estimates. But is 2 by 65, something like 3
7 percent? I would imagine.

8 Q. More than 95 percent of your casework
9 historically has been defense-oriented, correct?

10 A. No. I think that estimate was currently
11 open, kind of -- I guess the two cases -- when
12 you asked me the question, my understanding was
13 kind of currently and active. Over the last five
14 or ten years, I said it's probably similar but
15 maybe in the 85 to 90 or 95 percent. You know,
16 it ebbs and flows depending on what's open and
17 closed, you know. I have in the past had more
18 cases open at one time where I was retained by a
19 plaintiff's lawyer, so it just would be probably
20 incorrect to agree to that.

21 Q. If you were to look at your work five
22 years ago, so let's say 2015, and I know I'm just
23 -- or be assured, I'm only asking for ballpark
24 answers here and notes perfection in your answer,
25 about what percentage of your work back at that

1 time would very been litigation support as
2 opposed to literature support for manufacturers?

3 A. Well, so litigation-related cases or
4 kind of any projects that are not --

5 THE WITNESS:

6 She can't hear us.

7 In terms of a percentage of
8 consulting work related to litigation versus
9 consulting work not related to litigation, so it
10 could be, you know, various types of things, I
11 would, you know -- to pick out five years ago and
12 try and be accurate would probably be difficult.
13 But I'd say in the last, you know, five, ten
14 years, it was probably closer to maybe
15 three-quarters of my time litigation, something
16 like that. But, you know, that's -- that's -- I
17 guess we're really stretching my memory, you
18 know, in a sense.

19 Q. And then back five years ago, other than
20 doing, helping manufacturers with paperwork and
21 doing litigation, what other sort of tasks would
22 you have been doing for your business?

23 A. Well, I represent Dorris & Associates to
24 the ANSI, A-N-S-I, Z535 Committee, so that is
25 work that I do on behalf of Dorris & Associates.

1 I participate, I guess, in professional
2 activities, so things like the Human Factors in
3 Agronomics Society, Society of Automotive
4 Engineers. You know, that's probably not a lot
5 of my time, but doing work activities or
6 professional activities such as that. I
7 volunteer my time currently as an adjunct faculty
8 that Auburn, but, you know -- I mean that's
9 professional. I don't know that it's necessarily
10 on behalf of Dorris & Associates, but I would
11 characterize it as professional activity. You
12 know, so those sort of things.

13 Q. How do you -- how do you define human
14 factors? Those two words, I'm saying real
15 specifically. How do you define human factors?

16 A. Well, human factors is the body of
17 research or science that looks at kind of human
18 capacities, characteristics, and limitations.
19 And then, you know, human factors is generally a
20 shorthand for human factors engineering, which is
21 trying to apply that sort of knowledge about
22 human capabilities and characteristics, both
23 cognitive as well as physical, to the -- applying
24 that to the design or evaluation of either a
25 product or a system. So commonly, I think -- you

1 hear it more commonly today, human-machine
2 interface, when we talk about interaction between
3 a human being and a product. Or it could be, you
4 know, a job or a position on an assembly line,
5 those sort of things. So it's really applying
6 knowledge about human beings to the design or
7 evaluation of a product. And that could be
8 physical, but it could also be cognitive. So
9 evaluating warnings or safety information, how do
10 they understand how they interact with the
11 product.

12 Q. Do you have any specific psychology
13 training?

14 A. I've taken courses in psychology as an
15 undergraduate, as well as in graduate school.
16 I've had -- psychology is utilized, you know, at
17 least aspects of it, are utilized in human
18 factors courses. So you'd be hard-pressed to
19 talk about -- to participate in a human factors
20 class without talking about, you know, aspects
21 such as information processing models, so how do
22 human beings process information. So I have
23 taken classes in psychology, engineering
24 psychology, organizational behavior, as well
25 as -- I would say that's included in courses --

1 like graduate courses, I had took both in
2 industrial design as well as in human factors.

3 Q. Is it fair to say you are not a
4 mind-reader?

5 A. Sure, I would agree with that.

6 Q. That you are not a mind-reader?

7 A. I guess I'm not a mind-reader, and I
8 don't know of anyone who is.

9 Q. Have you given a complete description of
10 how you define human factors as a study?

11 A. I mean I think so. I've done my best.
12 I think it's consistent -- I tried to talk about
13 human factors and give some references in my
14 report, and I think what I told you today was
15 consistent with that. I mean you're free to -- I
16 guess I can flesh it out more if you have some
17 questions, but I think it's a good definition.

18 Q. So one of the things that you will not
19 be doing today is telling us exactly what
20 Seanesee Richardson thought, correct? You will
21 not be doing that?

22 A. Correct. I mean I think I talk about
23 that in my report, is that's unknown. I think
24 it's speculative to talk about what his specific
25 knowledge or what he was specifically thinking.

1 We can look at what we know about certain actions
2 and see if that's consistent with instructions or
3 warnings information in the manual, you know,
4 procedures. But to say anyone can say
5 specifically what was in his mind, I would not do
6 that and I don't think anyone can.

7 Q. And so it's your belief that -- that you
8 would have to speculate to tell us or the jury
9 what was in Seanesee's mind?

10 A. I think it would be speculation on the
11 part of any expert, including myself. I guess
12 the only potential limitation to that is to the
13 extent there is any testimony about things that
14 he said or descriptions of his actions, you know
15 we can -- you know, that might be helpful to a
16 jury, kind of looking at it from that
17 perspective. But to say -- I would not come in
18 and say my background in human factors allows me
19 to discern specifically what he was thinking. I
20 would not characterize an opinion that way.

21 Q. When you are working on a warnings
22 aspect of instructions for manufacturers, are you
23 generally given a draft to improve?

24 A. I would say most often there is a draft
25 document that -- not always, but most often there

1 is a draft document, whether it's a draft label
2 or a draft owner's manual. But typically, in my
3 experience, there has been, you know, some
4 document that we start with.

5 Q. When you are asked by a manufacturer to
6 assist in their paperwork, are you normally given
7 or loaned the specific object or assembly process
8 so that you can use your hands in an attempt to
9 follow the instructions yourself to see the
10 degree to which you think the instructions are
11 effective?

12 A. I mean I can't say that's happened in
13 every case, but I would say most commonly, yes.
14 In my experience, most commonly we are able to do
15 either an inspection to look at an exemplar or a
16 product, particularly if it's something we're
17 unfamiliar with or have no experience with. I
18 mean I guess there could be an occasion where
19 we've already done in the past and we have prior
20 experience that we're drawing upon, but I would
21 say that's pretty frequent.

22 Q. The thing that is frequent is if you're
23 helping a manufacturer with a not huge item, that
24 they'll give you the item to work with so that
25 you can coordinate your belief in how the

1 instructions work with the item itself?

2 A. Yes, sir. Or that we have access to it
3 somehow. But not necessarily loaned or what, but
4 we may could go to an inspection somewhere to see
5 it, that kind of thing. But, yes, I think
6 generally that's a common step of the process.

7 Q. Do you believe that -- do you believe
8 that what's an adequate instruction is the same
9 today as it would have been in 2005?

10 A. I mean I guess that would be very --
11 that seems awfully broad. I guess my concern
12 would be it might be for a specific product or a
13 specific industry, there may be some information
14 that was learned, so instructions could certainly
15 evolve. In looking back, you may say, you know,
16 there's some information in 2005 that maybe we
17 didn't know or we didn't have, and you wouldn't
18 want to use that same instruction today. I mean
19 that's a possibility. So I guess that's kind of
20 the caveat, I would say.

21 Generally speaking, how information is
22 crafted, recommendations about providing clear
23 and understandable information, you know, those
24 guidelines have not changed. How we generally
25 craft language has not changed. But, you know,

1 there might be something unique to a product or
2 industry. So for that reason, I guess it would
3 probably be too broad to agree to what you said.

4 Q. All right. Breaking that down into
5 different subbits, you do not assume in 2021 that
6 the general public is less able to follow
7 instructions given than they were in 2005, are
8 you?

9 A. I think I understand the question, and I
10 would agree. I'm not assuming that consumers
11 today, that somehow the population has changed
12 and they're less able to follow instructions.
13 Just thinking about individuals, no, that would
14 not be an assumption.

15 Q. Okay. So then it would be fair to say
16 that what is an acceptable instruction by your
17 standard today, should be the same as what was an
18 acceptable standard -- an acceptable instruction
19 in 2005, correct?

20 A. I think it would go back to the earlier
21 caveat. I mean it could be something specific
22 that was learned or understood. I mean that body
23 of knowledge could change. But in general, would
24 I say the guidelines that are given to warnings
25 or technical writers -- maybe I should say it

1 that way. The general guidance provided to
2 technical writings about crafting either warnings
3 or instructions that are not related to safety, I
4 don't think they have substantively changed
5 between 2005 and today. I'm not aware of
6 something, you know, substantive in terms of
7 that. So when you look at and evaluate a message
8 and you say it's deficient in 2005 and there is
9 no change in terms of material substantively,
10 knowledge about risks or interaction or something
11 like that, then, yeah, the language would be
12 consistent. I would expect it to be the same
13 today. But we have to add the caveat of, you
14 know, there is always -- you could learn
15 something in that time period just from a
16 scientific perspective. And I would generally
17 think that's going to be more product or industry
18 specific, not how to cast warnings and
19 instructions.

20 Q. I think you've answered my question.
21 And just for me to use a different set of words
22 to see if I've got your answer correct,
23 whatever -- whatever are the applicable standards
24 in 2021 as to what constitutes an effective and
25 acceptable warning, is not different from

1 whatever would have constituted an acceptable and
2 adequate warning in 2005; is that correct?

3 A. I guess I would just change the word
4 "standards." I'd say the general guidance about
5 crafting adequate instructions hasn't changed.
6 There are some standards that have come about,
7 you know, that did not exist in 2005 that exist
8 today. So I just want to make you aware that --
9 I would say the general guidance about crafting
10 instructions has not substantively changed.

11 Q. And with respect to some creation of a
12 standard, it's your belief that any new standard
13 that's been created since 2005 would have still
14 gone toward the same definitions and guidelines
15 that were already in place?

16 A. They may have created a definition. You
17 know, they might not have been a commonly used
18 term. And I can give you a specific example, if
19 you'd like.

20 Q. Yes. Please.

21 A. So the ANSI Z535 Committee, we developed
22 a standard called the .6 standard. And in that
23 standard, we created essentially what was a new
24 term when we talk about a supplemental directive.
25 I don't believe that that term existed before, it

1 was certainly was not commonly used. And it is
2 intended to kind of talk about a safety message
3 that is referring you to an additional
4 information.

5 So an example might be on the label on
6 the jack in this case, it direct readers to the
7 owner's manual. You could characterize that as a
8 supplemental directive. So that term probably --
9 I just don't recall, I have not studied it, I
10 guess. But I don't recall it being commonly in
11 use. So that might be an example.

12 Q. And so the ANSI 35Z, you said --

13 A. 535.

14 Q. 535Z?

15 A. The Z is first.

16 Q. Z535?

17 A. Yes, sir. That committee existed, but
18 the .6. So Z353 .6 standard has come out since
19 2005.

20 Q. I see. But that .6 standard perhaps
21 coined the phrase "supplemental directive" but
22 the use of supplemental directives in effect
23 existed before that phrase was coined; is that
24 fair?

25 A. I would agree, I think that's a fair

1 characterization.

2 Q. And so the creation of that standard
3 language use "supplemental directive," was not
4 creating so much of a new standard but was
5 documenting and putting words to a practice that
6 was already in place before the .6 standard of
7 formalized the idea, correct?

8 A. Yes, I think that's fair. But we're
9 saying that term, that phrase, "supplemental
10 directive," I don't recall it being commonly
11 used, but people did refer to other sources of
12 safety information, that practice existed,
13 absolutely, I think that's fair.

14 Q. And as a follow through to that
15 question, those practices existed before even
16 though there might have been some new standards
17 put in place, they were more formalizing existing
18 standards than changing the way you do things?

19 A. I guess I would agree to the extent what
20 you're saying is, we thought about on the
21 committee and looked at what kind of conventions
22 are commonly used in practice and some of those
23 were adopted into the standard, yes. We
24 certainly weren't, you know, creating this in a
25 vacuum without thinking about best practices or

1 commonly used think techniques, so that's fair.

2 Q. So how would -- so for any question that
3 I give that relates to instructions or warnings
4 for the rest of today, I'm going to assume that a
5 single standard applies to them from 2005 to 2021
6 unless you tell me otherwise. Okay?

7 A. Yes. And you say standard, you mean
8 kind of in terms of evaluating the adequacy?

9 Q. Yes. Yes. That's exactly what I mean.

10 A. Yeah. And I just -- when you say
11 "standard," in my mind, I think of a voluntary
12 consensus standard. So something that's, you
13 know, more formal, like Z535.6. But you're more
14 kind of generally what would I look at in
15 evaluating the adequacy and kind of general
16 guidance. I think I'm with you, yes, sir. I
17 believe we're saying the same thing.

18 Q. Right. Right. And so part of what I'm
19 trying to just have some comfort in is that if
20 I'm asking you what is appropriate or not
21 appropriate about the owner's manual or the jack
22 warnings for this particular vehicle, a 2006
23 Chrysler Minivan with Stow 'n Go, if you tell me,
24 oh, I think that part of the warning was good or
25 that part of the warnings could have been

1 improved, I'm expecting you to tell me if that's
2 true regardless of where you stand between 2005
3 and 2021?

4 A. I understand what you're asking, I
5 believe, and I will do my best if there is
6 something that needs to be distinguished based
7 on, you know, changes over time, I will call that
8 to your attention. I'll do my best.

9 Q. Thank you, very much. That's what I'm
10 asking.

11 All right. So then in terms of when
12 you're working on instructions and warnings, is
13 there any normal fashion in which you expect the
14 consumer to read?

15 A. I guess I'm trying to understand the
16 question. I mean generally we look at that
17 you're going to read top to bottom, left to
18 right. But if you're asking do we expect them to
19 read like the entire document or jump around, I
20 guess I need to understand your question.

21 Q. It sounds like you understood my
22 question really well, because that's what I was
23 next going to try and ask. You know, in certain
24 languages they read from right to left instead,
25 and they might read from the bottom of the page

1 to the top of the page. And you and I are
2 speaking in English today and our conventions are
3 to read from left to right and start at the top
4 and work our way to the bottom. Is that what you
5 in your work expect people to do, to start at the
6 top and read toward the bottom, start with
7 instruction No. 1 and then proceed to instruction
8 No. 2?

9 A. Well, I would expect that when we're
10 talking about instructions that are written in
11 English, that consumers who read English will
12 understand that's the convention. They would
13 understand that it starts at the beginning and
14 then progresses through a document, and on a
15 particular page you read top to bottom, left to
16 right. You know, I don't know of any difficulty
17 with understanding that kind of convention
18 because obviously that would affect comprehension
19 or the ability to get through the document.

20 Now, I would say in response to your
21 question, it is -- it is known that there are
22 some people who may be not willing to read all of
23 the information, they may not start at the top of
24 the page. They may look for a particular piece
25 of information, so they may jump around. They

1 may filter out portions of information. I think
2 I talked about that in my report. So, you know,
3 I can't say my expectation is that someone will
4 pick up an owner's manual and read it from the
5 first page to the last page and read everything
6 on a page, it's going to be person specific, what
7 is it that they're looking at and what they're
8 interested in.

9 Q. So when you're working on a manual, what
10 is your expectation? Is your expectation -- and
11 how do you do it? Do you expect people to start
12 at the beginning and work their way through the
13 end or do you expect them to jump around? What's
14 your expectation?

15 A. Well, there are people that don't read
16 manuals at all, there are people that read
17 portions, they may only refer to a manual as a
18 reference, they may only look up specific
19 information, there are people that will read it
20 cover to cover. So my expectation is when I'm
21 working on a manual, you want to present
22 information in a clear format so that users can
23 find the information they can navigate to
24 information that they're looking for, and that
25 they understand there will be safety information.

1 You know, as an example with an automobile, there
2 is -- it is reasonable to expect that consumers
3 will understand their safety information in this
4 manual. And so is it possible that someone may,
5 you know, skip through the how to wear a seat
6 belt section to get to how to change a tire,
7 sure, that certainly can be a circumstance. But
8 you want to present the information in a way that
9 they can understand there is a sequence of steps,
10 we want you to follow the sequence of step, and
11 I'm presenting it in a clear way that you can go
12 through those. So my -- I would say I think
13 what's generally accepted is the goal is to
14 provide information in a way that it can be
15 understood and read and followed, and that in
16 terms of how to do that, you know, there's
17 probably a lot of different ways you can do that
18 appropriately. There is no one right way.

19 Q. When you say there is lots of different
20 ways to do that, I think I lost the track of what
21 you were saying. Lots of different ways to do
22 what?

23 A. To present information. Or just -- you
24 know, it would be inappropriate to suggest there
25 is only one right way to present information that

1 it has to be organized in a certain way. I think
2 that it's widely accepted. Even NHTSA,
3 N-H-T-S-A, NHTSA has said that -- and they were
4 walk talking about warnings and safety
5 information, that, you know, it's not reasonable
6 to expect that there is only one right way, that
7 there may be, you know, different variants or
8 versions that are also appropriate. And so you
9 have options, I guess, as a technical writer, is
10 what I'm trying to convey.

11 Q. But the standard would require even
12 though there might be more than one way to say
13 something and to present it, standards do require
14 that it be clear enough for the consumer to
15 understand, correct?

16 A. I would agree with that, you want it to
17 be capable of being read, capable of being
18 understood, and capable of being followed. So I
19 think those are kind of the three attributes.

20 MR. DIDRIKSEN:

21 We've been going for just -- not
22 that long, but somebody has turned my air
23 conditioning on to where I'm starting to turn
24 into an icicle. So can we take a two-minute
25 break while I fix this? Maybe five minutes?

1 MR. BOORMAN:

2 We've been going for about an hour,
3 let's just take a 10-minute break.

4 (A short recess was taken.)

5 BY MR. DIDRIKSEN:

6 Q. Do you, in your work for manufacturers,
7 recommend that the manufacturers order their
8 instructions and warnings in any particular
9 order?

10 A. No, I can't say there's a particular
11 order that is always followed. I think it should
12 make sense, so it should be logical and
13 practical. But I can't say there is one set of
14 generalizations on how to order a manual or
15 instructions, you know, for all products, no,
16 sir.

17 Q. In your view, what makes for an
18 effective warning?

19 A. I think it's the three attributes that I
20 mentioned earlier. It needs to be capable of
21 being read, so it needs to be capable of being
22 noticed and read, it needs to be capable of being
23 understood, and it needs to be capable of being
24 followed. And so you want to effectively
25 communicate to consumers what they need to do.

1 Q. So the warning has to be capable of
2 being noticed and read, the warning has to be
3 capable of being understood, and the warning has
4 to be capable of being followed? That's the
5 three attributes?

6 A. Yes, sir. I think that's fair.

7 Q. When you're working for a manufacturer
8 adjusting warnings, do you have them -- intend to
9 write them at a certain grade level or reading
10 proficiency?

11 A. No. There is not a general -- there is
12 no accepted practice or consensus that you can
13 choose a specific grade level, and oftentimes
14 that sort of reading index or indices are
15 unhelpful because you have to use a larger
16 section of information. They really came about
17 by looking at, you know, textbooks and trying to
18 look at language that's used, and they really are
19 focused on using shorter simpler sentences, you
20 know, in terms of where you end up on the grade
21 level kind of index. But trying to apply that as
22 a rule to warnings or instructions, it's been
23 assessed as suggested occasionally but there is
24 just no consensus and there is no practical way
25 to really use that as a meaningful tool. So I

1 don't recommend that.

2 Q. So in your own practice as an assistant
3 in providing instructions and/or warnings to
4 manufacturers, you do not attempt to apply any
5 particular grade level or reading proficiency
6 level?

7 A. Yes. If I understand your question, we
8 don't try to use like the Flesch-Kincaid reading
9 index to come up with a grade level, we don't do
10 that. It's not meaningful or really helpful as a
11 criteria or criterion. Rather, I would say that
12 you want to think about the characteristics of
13 your audience. So some language might be
14 appropriate, you know, in one context and it's
15 not in another. So technical jargon may be
16 appropriate in instructions that relate to a
17 sophisticated piece of scientific equipment that
18 is going to be used in specialized laboratories,
19 but you may want to avoid, you know, things like
20 that in products that have a broader consumer
21 base.

22 Q. Do you believe that FCA Chrysler should
23 have expected individuals of all sorts of reading
24 proficiencies to look at the owner's manual?

25 A. I think it's reasonable to expect that

1 consumers will know there is an owner's manual.
2 When you say "all sorts of proficiencies," I
3 guess that could be intended to include people
4 who are illiterate, and so I don't think anybody
5 necessarily expects an illiterate person to read
6 a manual. But that person would know that there
7 is safety information and so they could get the
8 information indirectly, by getting assistance
9 through family and friends that can read. But
10 that -- is there an expectation that only people
11 with a higher, you know, level of education read
12 manuals than people with a lower level of
13 education don't read manuals? No. I don't know
14 any kind of basis for that assumption.

15 Q. And, in fact, auto manufacturers and
16 auto dealers seek to sell their vehicles to any
17 and everyone who would like to buy one rather
18 than saying you can't buy my car unless you have
19 a reading proficiency, correct?

20 A. I'm not aware of a practice where they
21 try to limit, you know, have some sort of reading
22 comprehension test or something, no. I'm not
23 aware of that. I would say they sell to the
24 general public.

25 Q. And you have driven many cars over your

1 lifetime, have you not?

2 A. Yes, sir.

3 Q. Have you rented a car before?

4 A. Yes, sir.

5 Q. And in your travel for your work you've
6 rented cars many times, haven't you?

7 A. I would agree.

8 Q. And many of those cars would be makes
9 and models that you didn't own because it was fun
10 to drive something different, right?

11 A. Or not fun. Yeah, I've driven a
12 range -- I would say rental cars are probably,
13 you know -- there is some probably common
14 thoughts about rental cars. But, no, I've driven
15 a range of different vehicles in my lifetime,
16 and, yeah, I think renting cars for work when
17 you're traveling is probably one of the reasons
18 why I've seen a number of different vehicles or
19 driven a number of different vehicles.

20 Q. Fair enough. And would you say it has
21 historically been very unusual for you to look in
22 an owner's manual in a rent-a-car?

23 A. No. But -- I would not agree with that.
24 But I would -- I tend to look at owner's manuals
25 and, you know, it's because that's my work,

1 that's what I do. I tend to rent from Hertz and
2 they have the owner's manuals in the glove box
3 for the vehicles. I don't necessarily read it or
4 go through it before I leave the rental location,
5 but I would say I have a general tendency to look
6 at the manuals in the rental cars because it's of
7 interest to me. I like to pay attention to, you
8 know, what's going on and what's being done in
9 terms of manuals.

10 Q. Okay. But that's -- that's more focused
11 on your specific interest than your work than any
12 perceived need on your part to look at an owner's
13 manual before you get in the seat and turn the
14 engine on and drive away?

15 A. As a generalization, that's true. There
16 may have been occasion where I needed to look up
17 how do I turn on the wipers or things like that,
18 but I think as a generalization, what you said is
19 correct.

20 Q. But that is another example of how
21 automobiles are provided to the general public
22 regardless of their reading comprehension skills,
23 not only just through sales but through
24 rent-a-cars, right?

25 A. I guess I'm not aware of some literacy

1 test associated with renting a car, I think
2 that's correct. I mean there is an expectation
3 that you will be a licensed driver if you're
4 going to be operating a motor vehicle, and so you
5 have to have a certain, you know, base of
6 knowledge. And there may be accommodations for
7 folks that are illiterate to take those tests. I
8 guess. I'm not sure. But that might be
9 something that occurs. But to get a license and
10 be a licensed driver, you're going to have at
11 least some base of information that you've
12 proven.

13 Q. For example, in Louisiana, we have a
14 very large Hispanic population. There is many
15 people who don't speak English who drive cars. I
16 guess the state gives them driver's license tests
17 in Spanish. But those realities haven't -- so
18 far to your knowledge, haven't made it so that
19 all automobiles are provided with owner's manuals
20 in both Spanish and English, do they?

21 A. In my experience, auto manufacturers
22 often have other languages available. But in
23 terms of when you purchase your car, I think, you
24 know, traditionally in the United States it's
25 been English language used in manuals most

1 frequently, but, you know, if you were
2 Spanish-only speaking and you went into a
3 dealership and brought in a car, could you
4 request a Spanish translation? You know, that's
5 certainly a possibility. But I would say, you
6 know, as a generalization, most of time in the
7 United States we see English as kind of at least
8 a default sort of language.

9 Q. So in your work and experience, what
10 are -- what's the purpose of illustrations that
11 are provided within owner's manuals?

12 A. Well, generally -- and this is a broad
13 "generally," the illustrations are provided to
14 supplement information. So written information
15 in a manual and illustrations are there to kind
16 of supplement that or convey some information.
17 So as an example, oftentimes there might be an
18 illustration of the instrument cluster and some
19 annotation to describe, you know, what are the
20 various indicators that might come up. You know,
21 this is your speedometer, this is your
22 tachometer, these are lights that might come on
23 at various times, and that supplements the
24 information where they describe those each
25 individual item and what circumstances they may

1 come on. So if the -- if the brake light comes
2 on in your vehicle, you could see an illustration
3 that shows where it is, but you could also read
4 what is a description of when it would come on,
5 how it functions, that sort of thing. So I would
6 say generally, and this is broad, it's there to
7 supplement.

8 Q. Have you participated in the writing or
9 re-arranging of any instruction manuals that have
10 more illustrations than they had words?

11 A. I don't think that I have ever worked on
12 one that was exclusively illustrations, but I
13 guess I can't think of one that I can say for
14 sure had more illustrations than words, but there
15 may be some that have a lot of illustrations and,
16 you know, maybe comparatively similar amounts of
17 illustrations and words. I mean, you know, for
18 simple products that it's more related to
19 assembly of a product, there may be more diagrams
20 or illustration than words. So I've had some
21 like that. I don't know that I can say there
22 were more illustrations than words, but, you
23 know, given the changes in the document, like a
24 simple one-page or a couple of pages about
25 assembling a product rather than a more

1 comprehensive owner's manual for a product, there
2 certainly may be more, or at least comparatively
3 I would say, almost as many illustrations as
4 words perhaps.

5 Q. You ever put together a Lego project
6 with your son?

7 A. I have, yes, sir. Well, I'm probably
8 the backseat driver, but yeah.

9 Q. Your son likes Lego?

10 A. To this day he does, yes, sir.

11 Q. Has he put together any of the 3,000
12 piece Lego structure? My stepson, who is 11,
13 does that.

14 A. Yes, I couldn't tell you for sure the
15 number, but big. Lots of pieces, for sure,
16 absolutely.

17 Q. Those instructions are primarily all
18 pictures, right?

19 A. From my recollection they were, I would
20 say, predominantly illustrations.

21 Q. Have you ever put together a piece of
22 Ikea furniture?

23 A. I have not.

24 Q. Have you ever received or assembled any
25 furniture that came in a box?

1 A. I'm sure I have at some point in my
2 life, yes, sir.

3 Q. Do you recall those being mostly
4 illustrations?

5 A. I can't say I have a specific
6 recollection. I mean I know what you're
7 referring to Ikea. I've heard people describe
8 that they have more illustration than words. I
9 don't have any personal experience with that, but
10 I can't tell you I can specifically recall for
11 something that I assembled, you know, what the
12 instructions look like. I just don't have that
13 kind of recall.

14 Q. So apparently those aren't manufacturers
15 who you have ever worked for?

16 A. I have not worked for Ikea, if that's
17 what you're asking, yes, sir.

18 Q. Have you ever worked for any
19 furniture-assembly instructions for any furniture
20 companies?

21 A. I'm sorry. I had a -- the phone rang.
22 I'm sorry I put it on "do not disturb."

23 Have I worked for anyone that has done
24 furniture manufacturer and worked on their
25 instructions? I just don't recall a project like

1 that as I sit here.

2 Q. And how important do you think the
3 illustrations provided are to an instruction
4 manual?

5 A. I think it depends. You know, it's such
6 a broad question. It would depend on what is
7 written, what are you trying to convey. I think
8 illustrations can be very helpful in conveying
9 information to consumers. You know, I think I
10 said in my report, I think the illustrations that
11 are used in the subject manual are appropriate,
12 and I think they're helpful. But to say that you
13 always need illustrations, I think, would be an
14 overstatement. So it really does depend on what
15 instructions and what product you are looking at.

16 Q. You expect the consumer to look at and
17 try and understood the illustrations, don't you?

18 A. If they're reading a section of
19 information and it includes and refers to
20 instruction -- to an illustration should the
21 consumer, you know, look at that and try to
22 understand it, sure, I would agree with that.

23 Q. There's a common phrase, a picture is
24 worth a thousand words, right?

25 A. Yes, I've heard that. I'm not sure that

1 it's always true, but I've heard that
2 generalization for sure.

3 Q. How would you rephrase it? A picture is
4 worth 500 words instead of a thousand?

5 A. No. I have made the point that if
6 illustrations, you know, were clearly superior,
7 we probably wouldn't have gone away from
8 hieroglyphics in terms of communications. Words
9 have a lot of value, they have a lot of meaning.
10 They allow us to express a good point. I'm not
11 going to try and dispute a rephrase, you know, A
12 picture is worth a thousand words. I think there
13 are times a picture can be very helpful or
14 illustrations can be very helpful, but I think it
15 would be -- you can't overstate that. I think
16 you have to be cautious and say you can't say
17 every manual has to have illustrations, or that
18 illustrations alone make for a superior set of
19 instructions, I think that would be too far.

20 Q. You think it's important that the
21 illustrations match the product that's provided?

22 A. To some degree. I think that you should
23 be able to look at an illustration and based on
24 what's provided both in the words, the
25 description, the illustration, and your actual

1 physical intersection with the product, you
2 should be able to understand what's being
3 conveyed. So the illustration is a part of it.
4 I can't say it has to be an identical match, you
5 know. There's kind of a turn of phrase "for
6 illustration only" or "for illustration purposes
7 only." So it doesn't have to be a super detailed
8 or technical representation, but it should be
9 sufficiently similar that you can discern based
10 on the context of the writing, as well as your
11 interaction with the product, what you're being
12 asked to do or not to do.

13 Q. Do you believe that the use of the wrong
14 set of words can create harm?

15 A. I mean it can, sure. I mean it's
16 possible. It would depend on the words and the
17 circumstance. I mean you could use incorrect
18 wording and it may not create a risk, but is that
19 a possibility, sure.

20 Q. Would you agree that use of improper
21 illustrations that don't match the product
22 provided, could create harm?

23 A. Yes. I mean it's binary, either it
24 could or it could not, you'd have to look at the
25 specific one. But to say that a bad illustration

1 could never result in a risk, I mean obviously I
2 wouldn't agree with that.

3 Q. But you would agree that sometimes a bad
4 illustration could create some of level of risk?

5 A. That is a possibility. You'd have to
6 look at the specifics of, you know, the
7 illustration as well as the context, as I
8 described. You know, what words are provided as
9 well as the physical interaction afforded by
10 actually trying to perdu the task. But sure,
11 nobody can rule out and just say as a broad
12 generalization that an illustration couldn't
13 cause, you know, an issue, you just have to look
14 at it. You have to go through and take the time
15 to do the analysis.

16 Q. When you're helping a manufacturer with
17 their written instructions and warnings, is it
18 one of your goals that you do the best you can to
19 remove any ambiguity from the instruction?

20 A. For written instructions, you want to be
21 correct, you want to be -- generally I would say
22 you would try and avoid ambiguity, but, you know,
23 there may be times where you use qualitative
24 terms and you rely on users to apply information
25 and use judgment based on, you know, common

1 knowledge as well as the context. So I wouldn't
2 say that everything has to be, you know, explicit
3 or extremely explicit. But as a generalization,
4 if there is a safety message that's critical and
5 I thought there was some ambiguity in that, I
6 would point it out. And it may cause a
7 deficiency.

8 Q. When you say "it may cause a
9 deficiency," you're talking about ambiguity in
10 language and provided images?

11 A. Sure, we can include illustrations as
12 well. I think that's fair. Again, you have to
13 look at them together. When we're talking about,
14 you know, instructions, they're generally going
15 hand in hand. But, you know, is it possible that
16 ambiguity could result in a risk? Sure, that's
17 possible, but you need to look at it. I just
18 would not say everything has to be, you know,
19 extremely explicit, or, you know, you have to
20 have a detailed drawing such as a, you know, a
21 CAD drawing, that level of detail and
22 illustrations, you know, I certainly would
23 disagree with that.

24 Q. In fact, would you believe that that a
25 CAD drawing might or might not be effective as a

1 form of communication to the general public?

2 A. Might or might not? Sure. I mean it's
3 either one -- it would depend on the illustration
4 and the audience, but it has to be one or the
5 other. It's kind of binary.

6 Q. How important is it to you that written
7 instructions be specific and explicit?

8 A. I think it's going to depend on the
9 context as I was describing earlier. Generally
10 we look for specific -- specificity to some
11 extent, at least. Explicitness to some extent,
12 at least. Primarily you want to provide enough
13 detail and information that consumers can
14 understand and follow the information. So that's
15 going to vary. You can't as a generalization
16 say, you know, a degree of explicitness that we
17 can put out and say this is what all warnings and
18 instructions should shoot for. You know, there
19 is no consensus for that. And so I would say to
20 the extent that the user can understand what is
21 being described and that they can -- again, based
22 on the context of the writing as well as the
23 illustrations and the interaction, that they can
24 understand what they're attempting to do. That's
25 the degree of specificity or explicitness that

1 you're looking for. And there is no clear way to
2 objectively quantify that.

3 Q. This case involves -- and your work on
4 this case involves a set of owner's manual
5 instructions and warnings, correct?

6 A. In part.

7 Q. Do you believe that the user must read
8 the whole section before doing anything?

9 A. Let me just make sure I understand. Am
10 I going to come in and say the user must read the
11 entire tire-changing section before doing
12 anything? No, I don't think I would agree with
13 that. I mean I think that would be a good idea
14 to familiarize yourself with the process. I
15 think that's the intent of what the safety
16 information is trying to convey, you know. But
17 might they kind of go, you know, one step at a
18 time, you know, that's certainly a possibility.
19 But I think, you know, as a general practice
20 looking through and understanding what are all of
21 the steps before you undertake the activity, I
22 think consumers understand that's a good idea.

23 Q. But your -- I heard two answers there.
24 So one answer I heard was the consumer is not
25 required to read the whole section before trying

1 to change the tire?

2 A. I would agree to the extent that we're
3 saying can you follow one step at a time, you
4 know in terms of what's laid out in the
5 tire-changing section, and if you follow those
6 information, the warnings and instructions, you
7 could still perform this safely? Then, yes. So
8 you're not required in the sense that you have to
9 have read some information on a later page. You
10 can follow along in a chronological or ordered
11 fashion without skipping ahead, and you can still
12 do this safely? Yes. So it's not required in
13 that sense.

14 Q. So you would not criticize Seanesee
15 Richardson if he started at the beginning of
16 jacking and tire-changing and he worked his way
17 through that process from the first page in the
18 manual?

19 A. No, I wouldn't call it criticism. I
20 think it would be the testimony I gave you
21 before, that I think consumers understand looking
22 through the section and look -- being familiar
23 with what the steps are is an appropriate thing,
24 that that's what the safety information is
25 encouraging you to do. But if anyone, including

1 Seanesee, attempted to follow the instructions,
2 started at the beginning of the section and went
3 in a -- without jumping around or without, you
4 know, picking what parts to read, if they're
5 reading it and going in order, you know, I
6 wouldn't say that I'm critical in the sense that,
7 you know, you can't do this safely or that that
8 behavior causes a specific risk.

9 Q. All right. And so I'd like to clarify.
10 So to the degree that Seanesee Richardson started
11 at the beginning of the jacking and tire-changing
12 section and didn't jump around but went page by
13 page and did his best to follow the directions,
14 you would not criticize his process in proceeding
15 in that fashion, if he did?

16 MR. BOORMAN:

17 Objection. Speculation. Vague.

18 But answer if you can.

19 THE WITNESS:

20 I understand your question, and I
21 would -- in that hypothetical, I would not be
22 critical if that was, you know, the situation, if
23 that was a hypothetical. I don't think that the
24 facts of this case would support that
25 hypothetical situation. Just as an example, the

1 vehicle was jacked up and raised up. That's not
2 discussed or addressed in the sequence of
3 activities until later in the sequence. So I
4 don't think the evidence would support, you know,
5 that hypothetical.

6 But in terms of your hypothetical if
7 someone started at the beginning of the jacking
8 section and was working through one at a time, I
9 can't say that I'm necessarily critical of that
10 behavior.

11 Q. All right. And as you pointed out, the
12 jacking of the vehicle appears later in the
13 series of numbers that are provided on steps to
14 do. Is that what you said?

15 A. Yes, sir. I use that -- that jacking
16 occurs later in the sequence. Also, there are
17 earlier steps that were not followed. There's no
18 evidence that the wheel was chocked, you know,
19 those sort of things. So there are steps that
20 appeared earlier before trying to retrieve the
21 tire, and there are things like lifting the car
22 that come after. As an example, Mr. Sullivan has
23 said that he thought that Seanesee was kind of at
24 step 2 -- between step 2 and step 3, as I read
25 his deposition. So I don't think the evidence

1 supports that. But that the jacking occurs
2 later, is one piece of that, sure.

3 Q. Blocks were supplied with the vehicle,
4 were there?

5 A. Blocks, you said?

6 Q. Yes.

7 A. Correct. I'm not aware of blocks or
8 wheel chocks being provided with the vehicle.

9 Q. So you're not critical if he didn't have
10 any blocks, that he didn't use them since the
11 vehicle -- the vehicle manufacturer didn't think
12 blocks were important enough to provide with the
13 vehicle, correct?

14 A. No, I wouldn't agree with that.
15 Obviously, I think that users should follow the
16 instructions because -- I don't think that it's
17 common that wheel chocks are provided with
18 vehicle. I haven't tried to survey it. But in
19 my personal experience, I don't think that's
20 common. You know, you can use anything from a
21 block of wood to a rock or something to attempt
22 to chock a wheel. So I think I would disagree
23 with the question, as you asked it.

24 Q. In what fashion do the instructions --
25 does the instructions use any words at all to

1 describe what is a block?

2 A. I guess I'll have to look at the section
3 to see the exact wording. I think they generally
4 kind of use block as, you know, perhaps both a
5 noun and a verb, but let me...

6 Yes, I think in the written instructions
7 in the -- in the owner's manual. So looking at
8 page 377 of the owner's manual, the version
9 that the Richardson family had, it's kind of
10 using block as a verb. Block both the front and
11 the rear of the wheel diagonally opposite the
12 jacking possession, block the left -- and then it
13 goes on. So it's using it in that language. And
14 then there is a diagram which appears to show
15 kind of a block of wood and arrows pointing at
16 it. So I think they used it both as a noun and a
17 verb in the written information.

18 Q. There is no place within the written
19 information that provides any description of what
20 is a block?

21 A. No, not written. There is an
22 illustration, you know, but they don't try to
23 specify like dimensions of lumber or something
24 like that, correct. That's correct.

25 Q. And so, for example, for this blocking

1 of the wheel, this illustration is critical
2 because it provides the only description of what
3 a block might look like or what a block might be?

4 A. No, I don't think I would agree with
5 that. I think it's a helpful illustration. I
6 think it provide, you know, something that a user
7 can look at if they wanted to understand where
8 they should be placed or, you know, what's being
9 depicted here. But could you use something other
10 than, you know, a rectangular block? I mean yes,
11 there are wheel chocks and things that are
12 available aftermarket. So you could use
13 different things, would be my understanding,
14 than, you know, one specific dimension or one
15 specific type of material. So I guess I would
16 disagree with what the question the way you asked
17 it.

18 Q. Explain to me how a 16-year-old would
19 understand what is meant by a block?

20 A. I think that in terms of looking at this
21 diagram, that you can see what appears to be
22 illustrated. You know, some dimensional lumber
23 kind of has grain, looks like to me, have wood
24 grain appearing in that illustration. I think
25 that 16 year olds have been around and likely

1 would have enough information to understand, you
2 know, wheel blocking or wheel chocking. You
3 know, that's pretty common as an example with
4 trailers and things. So to the extent, you know,
5 he had participated in Boy Scouts and been on
6 camp-outs, if they have a trailer and they block
7 or chock the wheels with the trailer, he likely
8 could have seen that. I don't know that he did.
9 But I would say is -- I think to the extent there
10 was a question about what that meant, then he
11 could certainly ask. He could ask his mom, he
12 could ask his dad, he could find out more
13 information. And we know that didn't occur from
14 Mrs. Richardson. She said that he did not ask
15 any information. So all I can tell you is, I
16 don't think this is outside of common knowledge,
17 you know, for licensed drivers. Generally, I
18 think there is helpful information kind of
19 depicted in the illustration. But if someone
20 after all of that was still confused, then they
21 can try to get that sort of information from
22 another source.

23 Q. So you would agree that you'd have to
24 speculate as to what he knew or didn't know and
25 the degree to which the combination of these

1 words and this illustration made sense or didn't
2 make sense to him, correct?

3 A. And I would add to that -- yes. And I
4 would add to that, I think anyone would be really
5 speculating, did he even read this page or not.
6 We just don't know. We don't know what he read,
7 if anything at all. But in terms of what was
8 specifically in his mind on this day, the only
9 information we potentially have, I think it comes
10 through the statements and testimony of
11 Mrs. Richardson.

12 Q. Is there a warning attached to this
13 instruction related to blocking?

14 A. I'm not sure I'm understanding -- when
15 you say -- are you limiting your question to the
16 information that's simply appears on page 377?

17 Q. Yes. On page 377 it says, and I quote,
18 Block both the front and rear of the wheel
19 diagonally opposite the jacking position. For
20 example, if changing the right front tire, block
21 the left rear wheel.

22 And that's all the words it uses about
23 blocking other than the illustration that
24 underneath it says the word "block." Is that
25 correct?

1 A. On this page, yes, sir. There's
2 information on the label, but, yes, sir, on this
3 page, you're correct.

4 Q. Is there any warning in the owner's
5 manual that tells you what will happen if you
6 fail to block the wheel?

7 A. Oh, is there a specific discussion about
8 some consequences explicitly linked to blocking?
9 No, sir, I don't think there is language such as
10 that. I think there is information about
11 instability of a vehicle once it's raised on a
12 jack, and so I think a reader would understand
13 that blocking the wheel relates to trying to
14 prevent the vehicle from moving which relates to
15 instability and the potential for a vehicle to
16 fall. But in this section, does it say if you do
17 not follow this particular information about
18 blocking, you know, that the vehicle could fall
19 off the jack, no, sir, it does not.

20 Q. So there is no consequence anywhere that
21 you know of as to what would be the adverse
22 consequence of failing to block, correct?

23 A. I think that's kind of broad the way you
24 asked that. What I would say is, there is
25 clearly information related to the danger of

1 being underneath a vehicle when it's raised, as
2 well as the potential for -- I'd just like to
3 finish and then we can hash it out. -- as well
4 as the potential for the vehicle to fall off the
5 jack. That relates to the stability of the
6 situation, that relates to, you know, potential
7 movement of the vehicle. I think that, you know,
8 a licensed driver, someone 16 years of age, would
9 be able to understand the reason that you're
10 blocking a tire, is to try to limit the movement
11 of the vehicle. And so that would relate to the
12 potential for the vehicle to move while it's
13 raised up on the jack. And so I think the
14 warnings that talk about the stability or
15 instability of a raised vehicle on a jack and the
16 potential consequences that could occur, I think
17 they apply. But I certainly agree when you ask
18 is there some information in this particular
19 section that says that if you, you know, similar
20 to the words of your question, if you do not
21 block, then X, Y, Z can happen, no, sir, there is
22 no language such as that in the section.

23 Q. To be clear, there is no wording about
24 the consequences of failure to block anywhere in
25 the owner's manual in the section on jacking and

1 tire-changing, correct?

2 MR. BOORMAN:

3 Objection. Asked and answered.

4 THE WITNESS:

5 I would disagree. I think you made
6 that question very broad. And I would give you,
7 you know, basically the same answer that I did,
8 that I think there is information that relates to
9 potential consequences, the danger of a raised
10 vehicle, the potential instability, and the
11 potential for a vehicle to fall off the jack. So
12 I think that relates to it. Do those explicitly
13 mention blocking, do they call it out? Not that
14 I recall, no, sir, but I think you would
15 understand that this is a precaution that's being
16 identified in this section that relates to tire
17 changing and there are initial warnings about the
18 risks and potential injury associated with tire
19 changing. So I think a reader would understand
20 those things are related. But I don't recall an
21 explicit sentence that uses the word "blocking"
22 and then goes on and talks about the vehicle
23 falling off the jack. If that's simply your
24 question, no. But when you opened it up and made
25 it more broadly, I can't agree.

1 BY MR. DIDRIKSEN:

2 Q. All right. Do you have a copy of the
3 Richardson's manual with you?

4 A. Yes, sir.

5 Q. Okay. We can take a break while you
6 study, but I want to ask you to study the entire
7 section on jacking and tire changing, and I'd
8 like for you to tell me whether blocking or block
9 is addressed anywhere other than this one
10 paragraph and one diagram on page 377 in
11 connection with vehicles with Stow 'n Go seating.

12 A. I'll be glad to take a break. However,
13 I think it's going to be the same answer that I
14 just gave you. I'm not saying the word "block"
15 appears explicitly in the other safety messages,
16 but I think a reader would understand that that
17 is a precaution related to this activity and that
18 these are risks associated with it. I'm not
19 trying to suggest to you that the word "blocking"
20 appears somewhere else. I mean I'm glad to take
21 a break and look, but --

22 Q. Well, I specifically --

23 A. I'm sorry.

24 Q. I do specifically want you to take the
25 break and read the entire section because I want

1 you to be able to confirm or deny whether the
2 words "block" or "blocking" appear anywhere else
3 in this section on jacking and tire changing, a
4 warning or an instruction in any fashion.

5 So we'll take a break at this time while
6 we takes a look.

7 MR. BOORMAN:

8 Okay. And just, Michelle, for the
9 record, this is part of the time that goes with
10 the deposition. This is being instructed by
11 counsel. So if you're keeping time, this should
12 be included. Thank you.

13 (A short recess was taken.)

14 BY MR. DIDRIKSEN:

15 Q. Did you speak to Mr. Boorman during the
16 break?

17 A. He did call me, yes, sir.

18 Q. And what did he discuss?

19 A. He just simply said keep listening to
20 the questions and answering them, and asked if I
21 needed a lunch break, that kind of thing.

22 Q. He didn't talk to you about your
23 answers?

24 A. No, sir.

25 Q. And what is your answer to the question?

1 A. I think I guess need the specific
2 question again.

3 Q. The specific question is, do the words
4 "blocking" or "block" appear anywhere in the
5 section on jacking and tire changing other than
6 on page 377?

7 A. Only when it comes up again in the
8 nonStow 'n Go seating option. But as it relates
9 to Stow 'n Go seating jacking instructions, it's
10 only on page 377 that I saw the word "block" or
11 "blocking."

12 Q. And so you did not see in any of the
13 warnings in that section the word "block" or
14 "blocking;" is that correct?

15 A. I think I said that earlier, yes, sir.

16 Q. You did not see the word "block" or
17 "blocking" in any of the warnings in the Stow 'n
18 Go section at all?

19 A. Correct. I think that's what I told you
20 earlier, yes, sir.

21 Q. And you agree that at least in
22 connection with the short paragraph or two
23 sentences on block, the illustration is an
24 important supplement to the words used, correct?

25 A. Yes, I guess "important" is a fine

1 characterization. It's certainly helpful. I
2 don't know that I can say it's deficient if the
3 illustration wasn't there, I guess I hadn't
4 thought about that. But I think "important" and
5 "helpful" are fine words to use.

6 Q. Would you agree that illustrations in
7 general should be helpful?

8 A. I mean I guess yes as opposed to
9 unhelpful, then yes, it would have to be helpful.
10 So you want them to be capable of being
11 understood and to assist users in performing
12 actions or understanding a concept. So in that
13 regard, helpful, yes, sir.

14 Q. But you saw the testimony that Seanesee
15 Richardson had the owner's manual open on the
16 deck over the side sill near where he was
17 working, correct?

18 A. Well, Mrs. Richardson -- I recall
19 testimony from Ms. Richardson that she recalled
20 seeing the book out, the owner's manual book out,
21 and she had talked about the sliding door open
22 area on the passenger side, and I discussed that
23 in my report. I don't -- you know, she never saw
24 him reading it or using it specifically. If it
25 was open or closed, I would have to defer to her

1 testimony. I just don't recall as I sit here,
2 but I do recall her saying that she saw it out.
3 From memory, I guess that's as far as I can
4 confirm.

5 Q. Now, have you ever known of another
6 vehicle that had its spare tire located in
7 between the driver and passenger seats under the
8 car?

9 A. I don't know. I mean I've driven cars
10 and not known where the spare tire was located.
11 So, I can't point you to one as I sit here but,
12 I've not tried to undertake that, you know,
13 survey different vehicles. So I just don't know
14 one way or another.

15 Q. But at least within your own experience,
16 you would agree that this spare tire location is
17 unusual and perhaps even unique?

18 A. We're talking about -- that's-- I
19 haven't seen this location on any car that I knew
20 where the spare tire was, but that's probably,
21 you know, a handful of cars. We're probably
22 talking about three or four cars. So it's
23 probably not a helpful metric. But all I request
24 tell you is that in my personal experience, I
25 don't recall a similar configuration, but I just

1 don't think that's, you know, going to assist
2 anyone in terms of whether this is prevalent or
3 not.

4 Q. How old are you, sir?

5 A. I'm 46.

6 Q. How many cars have you owned?

7 A. Maybe five, something in that ballpark.

8 Q. All from the same manufacturer, or are
9 they all different?

10 A. It's been a variety.

11 Q. Did you ever work with your friends on
12 their cars?

13 A. That's not something -- I mean I'd help
14 them out, I guess, if they had an issue, but
15 I'm -- you know, I'm not an automotive mechanic.
16 I probably wasn't going to be a lot of help.

17 Q. That's not your forte? Actually
18 changing tires isn't something that you would
19 consider yourself an expert in, correct?

20 A. I mean I guess -- I would not call
21 myself an expert tire-changer. I don't know if
22 there is such a person or not, maybe somebody who
23 works for Roadside Assistance but. I've done it
24 a few times in my life, a handful of occasions.
25 But I think, no, my expertise is more on the

1 instructions and safety information pertaining to
2 that rather than saying my opinions are based on
3 some experience or expertised based on actually
4 performing tire changes.

5 Q. And you said you've changed tires a
6 handful of times. That means probably five or
7 less times in your whole life?

8 A. Yes, sir, I think that's fair.

9 Q. And were they -- all of those tire
10 changes on the same vehicle, or were they on a
11 variety of the five vehicles that you've owned?

12 A. A variety of vehicles, but not always
13 vehicles that I have owned.

14 Q. But you apparently keep your vehicles
15 for a long time if you've been driving for 20
16 years and have only had five vehicles, right?

17 A. I think there's an expression about
18 until the wheels fall off, right? No, I tend to
19 own them for longer period of time, I guess.

20 Q. And so the main vehicles on which you
21 have any knowledge of where spare tires would be
22 would be the ones you've owned?

23 A. Well, I had to change a tire on a rental
24 vehicle before, or at least begin the process,
25 and my recollection is, you know, it was kind of

1 in the center, maybe more towards the rear on an
2 SUV that I had rented. So it's not limited only
3 I guess to cars that I have owned, I guess as I
4 understood your question.

5 Q. Okay. But the one that you did remember
6 where it was under, it was under the back deck
7 some place close to the rear bumper?

8 A. I would say relatively closer than this
9 vehicle. You know, this one, I would say, is
10 more towards the front of the vehicle. But I
11 can't tell you how far, you know, from like the
12 rear bumper how far inward, I just couldn't tell
13 you.

14 Q. You have never written instructions or
15 warnings for Chrysler's Stow 'n Go vehicle
16 instruction manual, have you?

17 A. No, sir.

18 Q. Have you in your whole career ever
19 written any instructions for Chrysler or Chrysler
20 products?

21 A. Yes, I guess the problem I'm having is
22 -- I guess if I answer that, you know, I have a
23 nondisclosure agreement, and so I guess I would
24 have trouble answering that because it seems like
25 it would either confirm or deny, I guess. But I

1 have not done a project related to tire changing
2 or Stow 'n Go seats on tire changing for
3 Chrysler.

4 Q. All right. And then is it fair to say
5 that your first contact with this particular
6 owner's manual would be in connection this
7 litigation?

8 A. I cannot recall specifically looking at
9 this one in the past, but I have looked at, you
10 know, hundreds, maybe thousands, of owner's
11 manuals. It's possible I have looked at it, you
12 know, in some other context for some other
13 reason, but I certainly do not recall looking at
14 tire changing procedures on this, you know, make
15 and model year of vehicle before, no, sir.

16 Q. You agree with Mr. Household that the
17 common intuitively obvious meaning of body is
18 your trunk?

19 A. No, sir. I tried to express my
20 disagreement with that point in my report. So,
21 no, sir.

22 Q. What does intuitive obviously mean to
23 you?

24 A. It's a phrase that I use often, say
25 something that would be obvious or understood

1 based on context. So when we talk about from an
2 HMI or Human Machine Interface perspective, an
3 interface that is intuitive meaning something
4 that a user can understand or figure out. And so
5 intuitively obvious would be I can understand
6 this concept or I can understand how to interact
7 in part based on either common life experiences
8 or information that we generally expect the
9 consumer base to have or through interaction. So
10 it's kind of a broad term.

11 Q. But sort of implies preexisting
12 knowledge on somebody's part, right?

13 A. Or that it could be understood by the
14 context. I think it includes both of those. As
15 I recall that I use that phrase in this report as
16 it related to knowledge that a vehicle could fall
17 off a jack and there is a danger associated. And
18 I think that comes -- I think people can
19 understood that by looking at the scenario. But
20 I think that's also commonly known, and I think
21 all the Richardson family agreed with that.

22 Q. Was there any study or text that
23 provides you a basis for stating what is commonly
24 known and what is not commonly known,
25 specifically with respect to jack use?

1 A. I think I understood the question. It
2 was cutting in and out a little bit.

3 Is there an article that I can point to
4 where I'm relying upon in terms of what is
5 commonly known as it relates to jacking vehicles?
6 I'm just trying to make sure I heard the question
7 correctly?

8 Q. Yes.

9 A. No, there is no specific published
10 literature that I'm aware of. I think in terms
11 of talking about, if I raise up a vehicle and if
12 it were to fall off, you know, could that pose a
13 risk? I think that's commonly understood based
14 on a general understanding of the world in
15 physics, that if something heavy were to fall and
16 I were in a place where I could be struck by that
17 I could be injured. I don't know of anybody
18 that's bothered to research that or publish that.
19 And I don't think that -- so I think that's a
20 reasonable expectation that people would
21 understand there is potentially a risk.

22 Q. We walk under bridges and through
23 doorways and under ceilings and under objects all
24 the time. We're all conditioned to do that,
25 right?

1 A. I mean we walk under building
2 structures, Sure. I mean I would agree with
3 that. I wouldn't say that's a fair analogy to
4 lifting a vehicle on a jack. But do we walk
5 under things that may be constructed and
6 suspended and are intended to remain in a
7 suspended place, sure.

8 Q. Once the vehicle has been lifted on the
9 jack and -- and it appears secure on the jack and
10 it appears not to be moving on the jack, then
11 wouldn't it be normal to believe that it stay at
12 rest on the jack?

13 A. I don't think I would agree with that.
14 I think that people would understand things could
15 happen, you know, that would cause it to
16 become -- I don't think people would necessarily
17 characterize that as being very stable, that I
18 think someone could look at it and say if
19 somebody bumped this car while it's up on a jack
20 it could fall off. I would generally expect
21 people understand that. I mean that's not a
22 fundamental basis, I guess, of one of my
23 opinions. I think it's fair to talk about that
24 when we talk about jacking vehicles. But, you
25 know, regardless of their understanding, I think

1 Chrysler has explicitly warned about the risk
2 that it could fall off of the jack. But I think
3 just putting that aside, I think users would
4 understand something could happen outside of my
5 control that could cause a vehicle to fall off a
6 jack. They would not by comparison think it's
7 nearly as stable as if it were on all four
8 inflated tires.

9 Q. Do you have any textual authority that
10 provides you the definition that "body" means
11 arm?

12 A. Well, I don't think I'm saying that, but
13 I can't think of a specific text that points to
14 that. Generally when -- for example, when they
15 talk about injuries, you know, in literature, I
16 tend to see things like trunk, you know, related
17 to kind of what I understood Mr. -- or excuse me
18 -- Dr. Householder to be speaking about, so there
19 is those kind of references. But is there some
20 written down definition that says "body" equals
21 arm or "body" means arm, no, sir. But I don't
22 think that's what I'm saying either.

23 Q. But you would agree "body" does not
24 equal arm?

25 A. I don't think that someone would think

1 that "body" means arm alone. I think if you say
2 don't move any part of your body, they would
3 include arms as part of that. Generally body --
4 I don't think there is any accepted convention
5 that "body" is limited in some way. And
6 definitely when you say any part of a body, I
7 don't think that limits it to the trunk in some
8 way.

9 Q. But to give that answer, you're assuming
10 what other people think or don't think, correct?
11 You could say arm if you want. This instruction
12 could say don't put your hand under the vehicle?

13 A. Well, I think that would probably be
14 less helpful. I think the point is any part of
15 your body, which would include the hand and it
16 would include the arm, it would include a head.
17 So I think just saying "don't put your hand"
18 would be less specific rather than using the
19 phrase, you know, "any part of your body" which I
20 think is more specific and inconclusive.

21 Q. But you would agree you're not an expert
22 on what "body" means and what "body" doesn't
23 mean, are you?

24 A. I would not limit my expertise in that
25 way. But I do author warnings and I talk about

1 what sort of language should be used, and I just
2 don't see a basis in any of the published
3 literature or anything that I can point to that
4 someone so would interpret the phrase "any part
5 of your body" to somehow exclude arms as
6 Dr. Householder has suggested. I mean that's
7 kind of his hypothesis. I don't know of any
8 basis. I can't bring you anything.

9 On the converse, I can't say here's an
10 article that says when you say "any part of your
11 body," people reported that that included arms.
12 But I think that's perhaps because people have
13 not bothered to kind of validate or investigate,
14 you know, things that would appear to be
15 intuitive or obvious.

16 Q. The first warning in the tire changing
17 section which talks about getting under a jacked
18 up vehicle is dangerous, the third sentence in
19 that little paragraph says -- or fourth sentence
20 says, If you need to get under a raised vehicle,
21 take it to a service center, right? Are those
22 the words it uses?

23 A. I think it's the fifth sentence. But if
24 you need to get under a raised vehicle, take it
25 to a service center where it can be raised on a

1 lift, yes, sir.

2 Q. Okay. That doesn't say if you need to
3 reach under a raised vehicle, does it?

4 A. Does it say "reach under it," no, sir.
5 It says "get under." And it's in the context of
6 the rest of that information. But does that
7 sentence say "reach under," no. It says "get
8 under."

9 Q. You wouldn't necessarily object in the
10 same manner to someone who simply reached under a
11 vehicle with their arm, maybe their shoulder,
12 would you?

13 A. If someone is reaching under a raised
14 vehicle, I think that would clearly violate this
15 warning. It's a bullet point. You know, it's a
16 paragraph, a number of sentences, but I don't
17 think it would be reasonable to expect someone
18 reads this where it says, Getting under a
19 vehicle, a jacked-up vehicle is dangerous. The
20 vehicle could slip off the jack and fall on you.
21 You could be crushed. Never get any part of your
22 body under a vehicle that is on a jack.

23 I don't think that when they read the
24 fifth sentence they would somehow say that
25 reaching is okay. You have to look at the

1 context in which it's communicated.

2 Q. Even the words "getting under a
3 jacked-up vehicle" seem to me to imply more than
4 simply reaching under. Do you disagree?

5 A. I mean I disagree with that conclusion
6 in that I don't have the same conclusion as you,
7 if that's what you're asking. I think that if
8 you look at the context of this warning and the
9 context of the situation, that people would
10 understand Chrysler is attempting to communicate
11 that they don't want any part of the body to be
12 under the vehicle. They've explicitly said as
13 much. And so trying to look at one sentence I
14 guess without consideration to the rest of the
15 information, I just don't think that's -- it's
16 not a valid methodology for evaluating warnings,
17 but I think I would disagree in the sense of
18 there's information that I think is clear, that
19 is inconclusive.

20 Q. Let's try and read that entire warning
21 together once more with a focus on my idea of
22 whether it really warns you against reaching
23 under a vehicle.

24 It starts out, Getting under a jacked-up
25 vehicle is dangerous. The vehicle could slip off

1 the jack and fall on you. You could be crushed.
2 Never get any part of your body under a vehicle
3 that's on a jack. If you need to get under a
4 raised vehicle, take it to a service center where
5 it can be raised on a lift.

6 Did I use all the words that time?

7 A. I believe so.

8 Q. And nowhere in that does it say that
9 reaching under the vehicle is dangerous, does it?

10 A. I agree that it does not use the word
11 "reaching," but I disagree because I think that
12 information is clear and explicit in that
13 reaching would be prohibited. When it says
14 "never get any part of your body under a
15 vehicle," along with the remainder of the
16 information about the risk that it could fall,
17 that it could crush you, that doesn't somehow
18 exclude your arm or other parts of your body. So
19 I agree with you that it does not use the phrase
20 "reaching," but I think that it does
21 appropriately address the scenario of reaching
22 through the information that is provided.

23 Q. But that's just your conclusion as a
24 reader and an English speaker, correct?

25 A. Well, I think I'm drawing upon my

1 experience in terms of writing and evaluating
2 warnings and safety information for many years
3 now, I'm relying upon the body of literature that
4 talks about how to craft warnings and safety
5 messages. I've looked at information and
6 publications that have tried to look at and
7 evaluate comprehension of different messages.
8 And so recommendations about being explicit and
9 so defin- -- qualify phrases like any part of
10 your body, I think those are appropriate. And I
11 just don't see a basis to say someone would
12 misunderstand it. I would also add to that that
13 I don't believe that any of the Richardson family
14 has suggested that they had the misunderstanding
15 that Dr. Householder has suggested. They said
16 the warning was clear, they understand it. But
17 in particular, Mrs. Richardson said she did not
18 believe it could be followed, but she didn't
19 understand or know about the spare-tire hook. So
20 that's not to suggest that they somehow
21 misunderstood this warning but in the way that
22 Dr. Householder has kind of suggested as a
23 hypothesis or a scenario in this case. So I just
24 don't know of anything in terms of facts specific
25 to the case, general literature that you could

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1 rely upon that would support his hypothesis.
2 He's done no -- it's his hypothesis and he has
3 done no, you know, data collection or anything to
4 support it that would contradict it. The
5 information, I believe, is clear and consistent
6 with available guidance about how to write safety
7 information and consistent with kind of accepted
8 practice.

9 Q. So your conclusion is that you, as an
10 expert -- you consider yourself an expert in
11 instructions and warnings, right?

12 A. Yes, sir.

13 Q. So with your background and information,
14 it's your conclusion that a normal consumer will
15 understand that warning we just discussed to
16 include you can't reach under the vehicle? Is
17 that your conclusion?

18 A. Yes, sir. I think for the reasons we've
19 discussed today and in my report.

20 Q. But you agree that members of the jury
21 are going to be English speakers and they're
22 going to read that and they're going to make
23 their own conclusions as to whether that includes
24 "don't reach under the vehicle or not," correct?

25 A. Sure. Absolutely a jury is going to --

1 as I understand it, you're going argue that to
2 the case, you know, to the jury and they have to
3 make their own mind up, sure, absolutely.

4 Q. And you agree that the warning as stated
5 doesn't anywhere say the word "reach"?

6 A. The paragraph that we read does not
7 include the word "reach," yes, I agree with that.

8 Q. And the paragraph that we read also
9 doesn't say anything about putting your hands or
10 your arms under the vehicle. It uses instead the
11 word "body," correct?

12 A. No, I don't agree with that
13 characterization. It says "never get any part of
14 your body." It's not just the word "body." And
15 I think you have to look at the entirety of the
16 message, that it would address hands and arms in
17 the context of what's being described, the danger
18 that's being described. But it doesn't use the
19 word "hand" or "arm" or "reach." To that extent,
20 I think we agree.

21 Q. Therefore, to that extent, you would
22 agree that this warning is ambiguous as to
23 whether you can reach under it with your hand or
24 your arm?

25 A. No, sir. I think we've talked about

1 that. And I will disagree with that
2 characterization for the reasons that we've
3 talked about today and in my report.

4 Q. You would agree that other opinions can
5 be held by other experts, correct?

6 A. Sure. I mean obviously Dr. Householder
7 has suggested that he thinks there is some
8 ambiguity just on this information, on this page.
9 I don't think he held that opinion as it relates
10 to the warning on the jack label. But in terms
11 of -- you know, it's my understanding he holds
12 that opinion, and I tried to explain, you know,
13 today and in my report why I disagree but sure,
14 he holds a different opinion, yes, sir.

15 Q. And you respect his right to hold a
16 different opinion from you on that question?

17 A. I mean I respect his right to hold it, I
18 would just say he has not provided a clear basis
19 for it. I don't see any reason why he has come
20 to that conclusion, and I don't see any relevance
21 as it relates to this particular case in terms of
22 some fax or information that would include us to
23 conclude Seanesee read this information and came
24 to that conclusion. It would be contrary to the
25 same -- you know, his brother Patrick, his

1 father, his mother didn't come to that
2 conclusion, so it would be contrary to his
3 family. So I just don't see any case-specific
4 facts to support it. I mean he has the right to
5 his opinion, but I think he would have to be able
6 to provide a clear basis, you know, to kind of
7 express it.

8 Q. And on interpretation of the English
9 language and the words used in this warning, you
10 agree that the members of the jury also have the
11 right to their opinion as to whether this
12 effectively tells you not to reach under the
13 vehicle or not, correct?

14 A. Oh, sure. Obviously, the jury I guess
15 will have kind of an ultimate opinion in this
16 case in terms of, you know, what conclusions they
17 come to.

18 Q. Including their own conclusion as to
19 whether this first warning and the jacking and
20 tire-changing section effectively warns not to
21 reach under the vehicle, correct?

22 A. Yes. I mean my understanding is that
23 that is an issue in this case. Dr. Householder
24 has talked about it, you know, to some extent.
25 It's I guess my perception that that's something

1 you will present in your case to the jury and
2 they'll have to make up their mind on whether or
3 not this warning and all of the safety
4 information is appropriate, sure, I agree with
5 that.

6 Q. So your accepting of the fact that that
7 two different opinions would be presented to the
8 jury and the ultimate decision of which decision
9 of which opinion is correct is going to be up to
10 the jury, correct?

11 MR. BOORMAN:

12 Hold on. Hold on a second. I
13 apologize Dr. Dorris.

14 Let me just object to the extent
15 we're getting into areas of legal conclusion, and
16 perhaps the judge may have something to say on
17 this.

18 So with that objection, please
19 answer the question.

20 THE WITNESS:

21 I mean obviously that's -- I think
22 that's correct. And what I was going to say is
23 your question assumes that we're both testifying
24 at trial, then the jury would have to look at
25 what is presented to them and what do they find,

1 I guess, credible or convincing, not only in
2 terms of the presentation and the analysis, but
3 the facts of the case. You know, obviously the
4 lawyers play a role in that, how well do they
5 present information and get it across to the
6 jury. But assuming that Dr. Householder
7 testifies and I testify, you know, I expect
8 you'll ask me questions and you'll ask him
9 questions, and the jury will ultimately have to
10 make a conclusion.

11 BY MR. DIDRIKSEN:

12 Q. You also understand that even if you're
13 the only one to testify, the jury would have the
14 right to agree with your opinion or not about the
15 effectiveness of this warning?

16 MR. BOORMAN:

17 The same objection. That gets into
18 legal areas of the judge may be involved in.

19 But subject to that, please answer.

20 THE WITNESS:

21 I mean I guess I understand your
22 question. The hypothetical that I were the only
23 witness to testify about warnings, then the jury
24 would have to agree or disagree? Sure. I mean
25 it's kind of, to some extent, you know -- I guess

1 if I were the only one testifying, there wouldn't
2 be an expert kind of contradicting me, so perhaps
3 take that into account. But I imagine you would
4 want to cross examine me, as you are today, and
5 then the jury will have to take out of that
6 whatever they value and appreciate. Sure, that's
7 clearly my understanding of the process under
8 your hypothetical.

9 BY MR. DIDRIKSEN:

10 Q. Have you kept a win/loss ratio on the
11 cases in which you've been involved?

12 A. You mean like which side that I was
13 retained by, did they prevail are not? No, sir.
14 You know, just like in this case, I think I have
15 one small piece of it, and, obviously, you know,
16 the judge and the lawyers play a big role. But I
17 couldn't tell you, you know, a percentage of
18 times that I was retained by a side and they got
19 a verdict that was beneficial to them, no, I
20 can't tell you.

21 Q. But you recognize that whoever hired you
22 has not won every time, correct?

23 A. Oh, I think that's correct, yes, sir.

24 Q. And so there has been times when you
25 gave opinions that if accepted, would have helped

1 your side win, but for whatever reason, the trier
2 of fact didn't -- didn't rule in your client's
3 favor?

4 A. Well, I think that may be an
5 oversimplification. As I said, warnings are only
6 one part of it. There is often, you know, design
7 claims and other things going on. I mean is it
8 possible that the jury said Dr. Dorris doesn't
9 know what he's talking about? Sure, that's a
10 possibility. I've never gotten that kind of
11 feedback. But in terms of, you know -- I guess
12 what I would say is, I recognize that I come in
13 and I provide the information that I think is
14 helpful to a jury. They don't necessarily know
15 the body of literature, what's been studied,
16 what's been looked at, what kind of
17 recommendations are out there for technical
18 writers and designers of warnings. So I think it
19 provides a valuable piece of it. But that's just
20 one small piece of an overall case that's
21 presented to the jury.

22 Q. You've admitted already that you don't
23 know any tests or scholarly literature or any
24 other verifiable source that can be used to
25 support your opinion that body might include

1 reaching under a vehicle?

2 MR. BOORMAN:

3 Objection.

4 THE WITNESS:

5 I think, you know, you've kind of
6 worded it differently than I have said. What I
7 have said is that the phrase "any part of your
8 body," that when you use those sort of
9 qualitative terms to describe it, that people
10 would understand and I would expect that they
11 would understand that would include any part,
12 meaning their hands, their head, you know, things
13 that are connected, that there is no accepted
14 convention that "body" only means your trunk. Or
15 that when you say "any part of your body" that
16 that's somehow narrows it to a trunk and doesn't
17 expand it, in terms of how we commonly safety
18 information to be explicit, to be inclusive,
19 phrases like that are commonly used.

20 But in terms of can I say somebody
21 has specifically studied that and I can point you
22 to, no. But I'm not aware of anything that I can
23 think of in terms of general guidance or
24 literature in terms of accepted practice that
25 would support, you know, the opposite proposition

1 which is Dr. Householder's opinion. So I guess
2 maybe an analogy would be, if a graduate student
3 came to me and said this is his hypothesis and he
4 wants to do study, I would really challenge him.
5 You don't form a hypothesis based on nothing, you
6 have to have some credible information based
7 observation to kind of come to a hypothesis. And
8 I just don't -- I understand what Dr. Householder
9 is saying in terms of some people may call their
10 trunk a body or the core of their body, but I
11 just don't see anything to support his kind of
12 application of that to this language in this
13 case.

14 BY MR. DIDRIKSEN:

15 Q. Would you agree that that warning -- the
16 first warning in the jacking and tire changing
17 section, would have been more clear if the middle
18 sentence that you're talking about in any part of
19 your body, if it instead said never get any part
20 of your body, not even a hand or foot, under a
21 vehicle that is on a jack, would be more clear
22 than including the reaching under or putting a
23 foot under the vehicle?

24 A. I would not agree that it would be more
25 clear. I think it is clear, I think that is

1 understood from the language. You know, would it
2 include a reference to a hand, sure. I mean I
3 obviously acknowledged you've inserted the word
4 "hand" in there, but I don't see a basis to say I
5 would expect that to be understood by a greater
6 percentage of people by using the word "hand" in
7 that sentence versus the phrase "any part of your
8 hand" -- excuse me -- "any part of your body." I
9 just don't see any basis to say that somehow
10 would be understood by more people. So I just
11 couldn't agree that it would be more clear.

12 MR. DIDRIKSEN:

13 I'd like to take a short lunch
14 break, please. Does a half an hour sound good to
15 you guys?

16 MR. BOORMAN:

17 That's fine with me.

18 Dr. Dorris, are you okay with a
19 lunch break now?

20 THE WITNESS:

21 Yes, I'm easy going. I mean I don't
22 need one, but if you guys want one, let's do it.

23 MR. BOORMAN:

24 Okay. Great. 30 minutes?

25 MR. DIDRIKSEN:

1 I think that should do.

2 (A lunch break was taken.)

3 BY MR. DIDRIKSEN:

4 Q. Are you intending for your opinions
5 today to include telling us what a firm-level
6 surface is?

7 A. I don't think -- I mean I'm not going to
8 add any more, I don't think, to that description.
9 I think the only reference I made -- I have not
10 been to the scene, so the only reference I made
11 in my report was it appeared that there were some
12 first responders that would not agree or seemed
13 to disagree with that characterization, but I
14 have not been to the scene and I'm not going to
15 add any more language or qualifications to that.

16 Q. So you personally do not have an opinion
17 as to whether it was parked on a firm-level
18 surface one way or the other, correct?

19 A. I do not because I have not been to the
20 scene. It just seems that they were at least
21 some witnesses that didn't agree to that, but not
22 based on independent evaluation, no, sir.

23 Q. Are you aware that 2006 was the first
24 year that Chrysler Grand Caravan were stored with
25 Stow 'n Go seating?

1 A. I know there was discussion about that
2 being a new feature, I guess I couldn't say I
3 paid attention to say if it was 2006 or maybe a
4 model year or two earlier, but it was a
5 relatively new feature, at least I guess is my
6 memory, but I'll defer to the Chrysler witnesses.

7 Q. All right. Well, I would like for you
8 to assume that the first year was 2006 for Stow
9 'n Go vehicles. All right?

10 A. Okay. Yes, sir.

11 Q. So if that assumption is true, then what
12 special activities do you think Chrysler should
13 have undertook to make sure that the new features
14 that only existed for the first time on these
15 2006 vehicles would be adequately addressed in
16 the instruction manual?

17 A. Well, there is no one set of activities
18 that has to be conducted. It's my understanding
19 that they talked about doing engineering
20 evaluations, doing work with prototype mockups,
21 doing kind of what they call clinics, both with
22 internally and externally participants. So those
23 are all appropriate things in terms of trying to
24 evaluate a new feature and get feedback in terms
25 of interaction. But from a human factors

1 perspective, there is not one specific
2 methodology or activity to do to evaluate either
3 the written instructions or the features
4 themselves.

5 Q. Have you been given copies of any either
6 internal or external clinics that were conducted
7 to test the language in the instruction manual?

8 A. I don't recall seeing any documentation
9 other than the testimony of the witnesses. So if
10 something has been produced, I guess I have not
11 seen it or haven't recognized it.

12 Q. As part of your studies, did you not ask
13 whether there was any documentation of any
14 clinics, either internal or external, to test the
15 new language for the new owner's manual?

16 A. I guess my memory is there -- from
17 reading the depositions, at least I got the
18 impression there wasn't some specific
19 documentation or it wasn't available if there was
20 some. But I mean I perhaps am misattributing it.
21 I don't recall making a specific request in terms
22 of responding to your question, but I think I had
23 the impression that there wasn't documentation
24 available. And I believe I got that from reading
25 the testimony.

1 Q. So you today at least know of no
2 documentation that supports the claim that there
3 was any clinics, either internal or external, to
4 test the adequacy of the new language that was
5 put in to the owner's manual that related to Stow
6 'n Go seating?

7 A. Other than testimony, I don't recall a
8 specific document, if that's what you're asking
9 about. No, sir, I can't point you to a document.

10 Q. And you don't recall any testimony of
11 anyone who actually attended such a clinic
12 either, do you?

13 A. My memory -- and I may be incorrect.
14 But my memory is I don't recall any of the
15 Chrysler witnesses saying if they participated,
16 but I may be mistaken about that. There were
17 several, maybe three or four, witnesses that
18 talked about the process but I'll have to defer
19 to them. I can't point you to one as I sit here.

20 Q. All right. If you look at page 378 of
21 the owner's manual, under a title Spare Tire
22 Stowage Stow 'n Go Seating -- tell me when you
23 get there.

24 A. Under the right-hand column, yes, sir.

25 Q. It says, For vehicles equipped with Stow

1 'n Go seating, the spare tire stowed inside a
2 protectable cover located under the center of the
3 vehicle by means of the cable wench mechanism.
4 The spare tire drive nut is located on the floor
5 under a plastic cap between the front seats."

6 It is your understanding that when they
7 first moved the spare tire to that location, that
8 would have justified the creation of this new
9 paragraph that described this new location for a
10 spare tire, correct?

11 A. I guess I don't recall the testimony in
12 that sufficient detail. But if this was a new
13 location and a new mechanism for lowering it,
14 then that, you know, is it reasonable to conclude
15 that that is new information in a manual, then
16 yes. But I guess I can't confirm from memory,
17 you know, if that's, you know, accurate or not.

18 Q. The next paragraph says, The tool pouch
19 contains three pieces and can be assembled into a
20 spare tire hook to remove the compact spare tire
21 cover assembly from under the vehicle or a wench
22 T-handle to raise/lower the compact spare tire
23 cover assembly.

24 Do you see that language?

25 A. Yes, sir.

1 Q. There is no explanation -- there is no
2 words used to explain how to assemble either the
3 spare tire hook or the wench T-handle, is there?

4 A. Not on this page. On the next page as
5 it lies open, there is a diagram that talks
6 about -- or depicts the components and the
7 configuration, and there is some words indicating
8 which is the wench T-handle and which is the
9 spare tire hook. But in terms of on this page
10 378 in that right-hand column, I would agree.

11 Q. Let me try again. Looking at page 378
12 and 379, there is no set of words used to
13 describe how to assemble a spare tire hook or how
14 to assemble the wench T-handle on either page, is
15 there?

16 A. You know what, I think that is a little
17 too broad. If you look at No. 2, the paragraph
18 that's numbered 2 on page 379, they talk about
19 assembling the wench T-handle extension to form a
20 T, so there are words that appear there.

21 Q. The main instructions -- would you agree
22 the main instructions on the way in which to use
23 the different pieces to assemble this spare tire
24 hook or the wench T-handle, is the diagram on the
25 left-hand column on page 379?

1 A. I mean that's the only diagram. There
2 is information -- there is some wording,
3 obviously, in the manual, there is some wording
4 embossed on the extension pieces themselves, but
5 I mean I guess it's fair to call it the main
6 because it's kind of the diagram showing how the
7 three pieces would fit together. I mean I guess
8 I wouldn't argue with characterizing it as
9 "main," but there is information in other places
10 as well.

11 Q. How do you think they picked the coin --
12 the phrase "spare tire hook"?

13 A. I don't recall that being asked. I
14 don't have any information how they specifically
15 decided on it. I mean it describes what the
16 purpose is, so I think, you know, it's reasonable
17 to look at it and say the title or the name is
18 describing what it's used for, but I can't
19 have -- I don't recall any testimony and I don't
20 have any independent knowledge.

21 Q. What does a "hook" mean to you? Or let
22 me ask that differently.

23 How do you define the word "hook"?

24 A. Well, again, I think generally a hook
25 would be something that you can grab with, in a

1 very broad sense. Obviously, you know, the
2 context in which it's used may bring something
3 specific to mind.

4 So if we're talking about fishing and I
5 say I need another hook, I think most people
6 would think it's a fish hook. But, you know, in
7 this context, talking about a spare tire hook, it
8 would be to reach the location of the tire to
9 grab it in order to retrieve it. So I think
10 generally a "hook" would be something that would
11 be capable of not only -- you know, grabbing a
12 hold of, for lack of a better description, but
13 you're able to retrieve something, you're able to
14 kind of take hold. You know, it's probably not
15 the best way to articulate it, but I'm trying to
16 give you a very clear, but, you know -- I think
17 just saying "hook" in general could be quite
18 broad.

19 Q. The goal of the words used in the
20 owner's manual is to be able to communicate with
21 a common man, correct?

22 A. Yeah, I think I understand what you're
23 saying. Yes. There is not -- there is not a
24 reason to assume anything other than kind of
25 licensed drivers when you're talking about an

1 owner's manual for a vehicle, that this is for
2 the United States or, you know, North American
3 market. But in terms of are you -- you're not
4 contemplating any specific degree of education or
5 specialized training, no, sir.

6 Q. Do you agree that most people when they
7 think of "hook," when you say "hook" to someone,
8 they normally think of something that normally
9 looks like a fishing hook?

10 A. Yes, it's going to be -- have a bend
11 sufficient that you can grab hold. If I just
12 said hook, you know, people might think of
13 Captain Hook, they might think of a fishing hook.
14 I think the context is important, what are you
15 talking about in order to direct them. But to
16 me, I like to fish, so fishing hook comes to mind
17 pretty quickly.

18 Q. I'm going to say that fishing hook is
19 the first thing that comes to mind for me too or
20 a hook used for picking up straw bales or Captain
21 Hook's hand which is kind of like what a hook
22 would look like for picking up a straw bale. All
23 of those hooks that we're talking about that come
24 to mind for you and for me, all turn back on
25 themselves, don't they?

1 A. I guess I don't know -- lucky enough not
2 to have worked on a farm and had to pick up a
3 straw bale, so I'm not sure what that looks like.
4 But a fishing hook for sure has more of a radius
5 and tends to kind of loop back towards itself.
6 But, you know, I think the point being that there
7 is sufficient bend or radius to allow you to
8 grade hold of something, you know, and pull back
9 and, you know, keep a hold of it as you're
10 pulling on it. But certainly a fish hook I think
11 more of kind of a bend or radius rather than a
12 90-degree turn, if that's what you're asking.
13 But I don't think that is to the exclusion of
14 other designs.

15 Q. Okay. And in that picture on page 379,
16 as you point out that what's been named the spare
17 tire hook just has a 90-degree bend at the end
18 and kind of looks like a long shank bill, right?

19 A. I would characterize it as 90 degrees.
20 I didn't measure it, but approximately. Yes,
21 that it's a long -- so that you can reach under
22 the vehicle and it has a bend that I think is
23 approximately 90 degrees, I think that's a fair
24 description.

25 Q. It doesn't really look like a hook when

1 you -- what pops into your mind is what a hook
2 would look like, does it?

3 A. I think in this context, it -- I don't
4 look at it and I never looked at this diagram and
5 said, Boy, that doesn't look like what I
6 expected. You know, if we're talking about a
7 fishing hook and you put a fishing hook next to
8 it would it look somewhat different, sure, I
9 think it would. But in terms of explaining that
10 the intention is to get the spare tire to be able
11 to grab a hold of it, I think people would be
12 able to understand the terminology "hook."

13 So I guess I haven't thought of it as
14 somehow inconsistent in terms of the design of 90
15 degrees with the terminology "hook."

16 Q. Or since it's just a plastic item, they
17 could have put a radius on it and made it look
18 like a fishing hook and it would be easier to
19 understand what a purpose would be, wouldn't it?

20 A. I'm not sure you could use it if it
21 looked like that, though. I think the fact that
22 you're reaching under and trying to grab a hold
23 of it -- you know, a fishing hook is used very
24 differently. It's hooking into the corner of the
25 fish's mouth, we hope. I mean could they have

1 made it differently? I guess I don't know of a
2 reason why not, but you would have to ask the
3 folks at Chrysler. But if you did something like
4 that, I think that may impact your ability to use
5 it, and it's kind of -- that would be a negative
6 trade-off compared to, you know, something that I
7 don't think causes any confusion and I haven't
8 seen any evidence that there was any confusion,
9 you know, in this particular case.

10 Q. A fishing hook is also used to pull
11 something out of the water that you can't
12 necessarily see until you hook it, right?

13 A. Oh, sure, that you may not see the fish
14 before it bites down? Sure.

15 Q. Right. And if this -- if this was
16 shaped more like a fishing hook, you might
17 understand that you're going fishing under the
18 vehicle hoping to hook the spare tire that's kind
19 of difficult to see because of the strange
20 location, right?

21 A. I just don't agree with that, you know,
22 description. I think you can see the spare tire
23 when you lower it with the wench, you can look
24 under, you can see it. In terms of
25 understanding, you know, using a hook to reach in

1 and grab it, I think that would be understood. I
2 don't think that, you know -- I guess I would say
3 to the extent you're suggesting it needed to look
4 more like a fishing hook, that I guess I haven't
5 thought about that today, that's not what, you
6 know, Dr. Householder or anybody has said. To
7 the contrary, he seemed to think that the
8 45-degree angle of the jack handle would be
9 confused. So just thinking about it, I don't
10 think that it would add anything in terms of
11 making it look like a fishing hook, and it's not
12 clear that you could use it. But I wouldn't
13 describe the activity as really kind of going on
14 a fishing trip. I think you're reaching under
15 with this device to grab hold and pull it out,
16 and I think that's understood by the illustration
17 as well as the written instructions.

18 Q. You think that the fact that it was
19 twilight and the sun was going down had any role
20 that it played in this accident?

21 A. I'm not aware of that. I haven't heard
22 any description that or suggestion that Seanesee
23 had any difficulty in visualizing or seeing
24 anything. So I'm not aware of the time of day or
25 lighting level having impacted this. You know,

1 if you're working on a car and you need more
2 light, a lot of times you can do that. Phones
3 these days have flashlights on them. But I guess
4 I'm not aware of any evidence.

5 Q. So on the jacking instructions, No. 1
6 talks about loosening wheel nuts, No. 2 says to
7 remove the compact spare tire cover assembly,
8 assemble the wench handle extensions to form a T
9 and fit the wench T-handle over the drive nut,
10 rotate the nut to the left approximately 33 turns
11 until the wench mechanism stops turning freely.
12 This will allow enough slack in the cable to
13 allow you to pull the spare tire out from under
14 the vehicle.

15 You've read that before, I'm sure, huh?

16 A. Yes, sir.

17 Q. And it is the goal of an owner's manual
18 to communicate what's needing to be done to the
19 common man, right?

20 A. You want to convey information so that
21 it could be understood by the audience, yes, I
22 agree with that.

23 Q. And so you should -- the expectation --
24 I'm starting the sentence all over again. I keep
25 flaying about in my use of words. It's part of

1 my problem with being an engineer first. I don't
2 always get my sentences out all in order. Let me
3 try again.

4 The common man is supposed to understand
5 from this language that this T-handle has to be
6 turned 33 times until the mechanism stops turning
7 freely, right?

8 A. No, I don't think that's what it's
9 conveying. It said approximately 33, but it says
10 to rotate until it stops turning freely. And
11 they qualify that and they said approximately 33.
12 But it's not -- I guess the way you worded it, it
13 sounded like you're only turning 33 and then
14 stopping.

15 Q. Now, are you aware that the mechanism
16 has to be turned 47 turns until it stops turning
17 freely?

18 A. I know that -- I think that activity has
19 been done on the subject vehicle and it was more
20 than 33, I just can't tell you from memory I
21 recall the number in terms of -- until it stopped
22 turning, what it was for the subject vehicle.

23 Q. You think 47 turns is approximately 33?

24 A. Sure. In terms of, you know, it's more
25 than you might guess. I mean it's a lot, a lot

1 of rotations. So I don't think that -- in the
2 context of the sentence, that approximately 33
3 would somehow cause someone to stop turning at 33
4 turns --

5 Q. If you go to a restaurant --

6 A. -- in terms of the information.

7 Q. If you go to a restaurant and the
8 waitress tells you, oh, that cost \$33 and then
9 she hands you a bill for 47, you think that would
10 be approximately 33, 47?

11 A. I think in that context I wouldn't say
12 it's approximately. But if she said it's
13 approximately \$33 and it turned out it was 47, I
14 don't know that I would have a quibble there.
15 But if she told me a definitive price and it
16 turned out to be different, I certainly would ask
17 about it.

18 Q. What does it mean to you -- and I guess
19 really the question is, what would it mean to the
20 jury, the phrase "this will allow enough slack in
21 the cable to allow you to pull the spare tire out
22 from under the vehicle"?

23 A. Well, it's explaining why you're
24 undertaking this activity. It's explaining why
25 you should rotate until it stops turning freely,

1 and it's explaining that you will have enough
2 slack in order to retrieve the tire. It's not
3 directing you to retrieve it yet, it's not,
4 saying you know, anything along those lines;
5 however, it is explaining why you're rotating the
6 nut until it stops turning.

7 Q. And it says it will allow you enough
8 slack in the cable to allow you to pull the spare
9 tire out from under the vehicle. That is telling
10 you that at some point in this process you are
11 going to have to pull the spare tire out from
12 under the vehicle, correct?

13 A. I would agree with that, at some point
14 the tire has to be pulled out, yes, sir.

15 Q. Now, if Mr. Richardson completed No. 2
16 with the help of his mom and the wench mechanism
17 was turned until it stopped turning freely, at
18 that point the cable is slack enough to allow him
19 to pull the spare tire out, right?

20 A. Let me just make sure I understand. If
21 it were turned -- in the hypothetical, if it had
22 been turned until it stopped, that should allow
23 enough slack to pull it out from underneath?
24 Yes, sir, that's my understanding, and I believe
25 that's been demonstrated on the subject vehicle

1 as well.

2 Q. But now in his particular car, the
3 height of the spare tire was 6 3/4 inches and the
4 space underneath the exhaust pipe was only 5 1/2
5 inches, correct?

6 MR. BOORMAN:

7 Objection. Vague as to location.
8 But please answer if you can.

9 THE WITNESS:

10 I know there has been an issue in
11 terms of, you know, what were the measurements
12 and what was the subject vehicle and those sort
13 of issues at various points of clearance. I
14 can't tell you I recall the specific numbers,
15 it's not something I focused on, but I know that
16 -- I think Mr. Sullivan and Dr. Vogler have kind
17 of addressed that issue.

18 BY MR. DIDRIKSEN:

19 Q. All right. But you understand that in
20 the Richardson's vehicle there are the space
21 between the exhaust pipe and the ground was
22 shorter than the side height of the spare tire,
23 correct?

24 A. I just can't agree, you know, in terms
25 of specific dimensions, the tire versus, you

1 know, the available clearances of those things, I
2 would have to defer to others that have seen the
3 subject vehicle and done measurements. I know
4 there is an issue in discussing about -- about
5 if, you know, I guess the scenario if there is
6 not sufficient clearance available, would a user
7 understand, you know, that they could potentially
8 jack up the vehicle or they could try and pull it
9 from the other side. I guess that's how I looked
10 at the issue. I just have -- I can't agree on
11 the question in terms of what the dimensions are,
12 because I just don't know.

13 Q. Would it be important to you in
14 considering warnings as to whether the dimension
15 was insufficient to allow the spare tire to come
16 out?

17 A. I think the answer is, as I understand
18 your question, no. In terms of what I've
19 understood that issue in this case, you know,
20 there has been discussion about over time vehicle
21 changing, you know, sag in the suspension or
22 other reasons, I couldn't give you a list or tell
23 you, you know, that I have any independent
24 evaluation of that. But looking at it from a
25 warnings perspective, I think there is sufficient

1 information to address that potential scenario.
2 You don't have to pull the spare tire from the
3 passenger side where you're intending to change
4 it, you could pull tell from the other side of
5 the vehicle. And it's my understanding, you
6 know, the muffler is routed on the passenger
7 side, not on the driver's side. Additionally, I
8 think the information is clear that if for some
9 reason -- they specifically talk about if a tire
10 is flat. But if there is some clearance issues,
11 you could use the jack to jack up the vehicle to
12 raise it just enough for clearance, I think I
13 talk about this in my report, but that's a later
14 portion of the instructions. But I think there
15 is information that addresses that potential
16 scenario.

17 Q. So you would agree if the -- if you get
18 to that step and you're trying to move the tire
19 out from under it and you have insufficient
20 space, that what you need to do at that point is
21 to jack it up?

22 A. Well, if you assemble the spare tire
23 hook and try to pull it from the passenger side
24 and were unsuccessful, you could try it from the
25 other side. The instructions do not require you

1 or direct you to pull it from the passenger side.
2 Is it an option that you could raise the vehicle
3 enough for clearance, I would agree with that.
4 But it's not -- the instructions are not telling
5 you that's what you have to do. But I -- if you
6 had attempted to remove the tire using the spare
7 tire hook and had a clearance issue, you know,
8 then you would have to address that.

9 Q. All right. And so you don't actually
10 fault Mr. Richardson for believing that he had to
11 use the jack to lift the vehicle a little bit in
12 order to get the spare tire out from under the
13 side of the car?

14 A. Well, that's not my understanding.
15 Again, we've talked about we don't have any
16 specific knowledge about what his understanding
17 or what his belief was. In terms of my
18 understanding of the events, the vehicle had been
19 raised and then he attempted to get to the tire,
20 so there is no description of any attempt to try
21 and retrieve it and having clearance issues
22 before trying to get underneath the vehicle. And
23 we know that he did not have the spare tire hook
24 because his mother had those extensions formed as
25 the T-wench handles. So I guess we don't know

1 what he was specifically thinking as we've talked
2 about earlier today, but I guess that
3 hypothetical you were asking me doesn't really
4 comport with my understanding of, you know, the
5 facts in the case.

6 But if somebody had to raise the vehicle
7 a little bit to get clearance to pull out the
8 tire in accordance with the available warnings
9 and instructions, I wouldn't be critical of that.

10 Q. If someone attempted to use what they
11 thought was a spare tire hook, the spare tire and
12 its carrier out from under and it wouldn't work,
13 are you specifically critical of somebody
14 reaching under the vehicle, just simply reaching
15 with their arm to grab hold of the spare tire and
16 its carrier and drag it out?

17 A. I mean I think the answer is yes as
18 we've talked about. That is inconsistent with
19 the available warnings and safety information.
20 So I'm not -- I would not say that it's
21 appropriate to violate the warning to reach
22 underneath with your arm and whatever portion of
23 your body additionally you need to get under
24 there and try and reach it either with your hand
25 or some other tool that's not the spare tire

1 hook. I would also say that using something
2 other than the spare tire hook is not consistent
3 with trying to follow the instructions, you know,
4 going from one step to another that kind of
5 reflects an attempt to use your own judgment, I
6 guess, rather than rely upon information in the
7 manual.

8 Q. Do you know what the dimension is from
9 the edge of the car to the edge of the spare tire
10 carrier?

11 A. I don't know off the top of my head, no,
12 sir.

13 Q. Do you know the dimensions of the car at
14 all?

15 A. Not from memory no, sir. I mean I've
16 seen it in person, but -- I've seen an exemplar
17 in person, but I think Dr. Vogler and Dr. Gwin
18 and, you know, perhaps Mr. Sullivan and
19 Dr. Householder have some measurements, but I
20 just don't recall what they are.

21 Q. Where did you see an exemplar?

22 A. It was here in the Atlanta area.

23 Q. Was it at a law firm's office?

24 A. No. I don't recall the -- I don't
25 recall the facility name, but it was being stored

1 somewhere on the north side of Atlanta.

2 Q. When you visited the vehicle, what was
3 its condition?

4 A. The exemplar seemed to be in fine
5 condition. I photographed it and I think we
6 produced those photos to you in terms of
7 describing it overall, I don't know that I, you
8 know, could do more than what you can see.

9 Q. Did you make any specific measurements
10 on the exemplar?

11 A. I don't think I guess made any specific
12 measurements of the vehicle itself, I think I may
13 have taken some photos of the tools or the jack
14 itself with a tape measure present just to give
15 it some reference. That's my memory.

16 Q. And it's your belief that you produced
17 your photos in response to -- in advance of your
18 deposition today?

19 A. That was my understanding.

20 Q. Do you recall what date you took the
21 photographs?

22 A. It was, I think, early October of 2020.

23 Q. And at the time that you took your
24 photographs was the vehicle having any work done
25 on it?

1 A. No, sir. It was -- it had been stored
2 at this facility and it wasn't undergoing any
3 sort of other inspection or other repair work or
4 anything.

5 Q. Did you specifically ask whether there
6 had been any repair work done on the vehicle?

7 A. I did not, to be honest.

8 MR. DIDRIKSEN:

9 I need to take a five-minute break.

10 (A short recess was taken.)

11 BY MR. DIDRIKSEN:

12 Q. Do you have your photos available to
13 you?

14 A. I believe so, yes, sir.

15 Q. Do you remember what was the condition
16 of the tires at the time that you saw the
17 vehicle?

18 A. They were inflated. I did not measure
19 to see -- you know, take a measure of what the
20 pressure was. But the tires seemed -- I just
21 don't recall any defects that I saw, they were
22 just all four inflated.

23 Q. All right. Do you know if they were
24 essentially new tires?

25 A. I don't recall as I sit here. I don't

1 recall them, you know, being particularly worn
2 out from memory, but...

3 Q. Would it matter to you whether they were
4 new or old?

5 A. Not to me specifically. I know that
6 that issue of clearance has come up and that
7 others are looking at that and evaluating it and
8 have tried to do so systematically. But for my
9 purposes, looking at an exemplar, it was really
10 to be able to perform a task analysis.

11 Q. All right. So for you, it didn't really
12 matter whether there were new tires or old tires
13 or how big the clearances were?

14 A. Correct. I was not attempting to
15 measure that. It's my understanding others were
16 looking at those issues.

17 Q. You did not attempt to make measurements
18 related to interference between the exhaust and
19 the tire, correct?

20 A. I did not attempt to make measurements,
21 that's correct.

22 Q. But the exemplar as it was presented to
23 you, were you able to pull the spare tire out
24 from under the exhaust pipe?

25 A. I was.

1 Q. And I can't remember what your answer
2 was. Did you specifically ask them whether they
3 had done any work on the vehicle before you saw
4 it?

5 A. I don't recall asking that question, so
6 I don't think that I did, but nothing was
7 reported to me, you know. I don't know the
8 history of that vehicle. I didn't get like a
9 CARFAX report or anything like that.

10 Q. You didn't ask the facility that was
11 holding it what work, if any, they had done on
12 it?

13 A. Correct. I mean as far as I know, they
14 are just a storage, you know, facility not -- not
15 a repair shop or anything. So I guess my
16 expectation is they hadn't done anything, but I
17 did not specifically ask.

18 Q. On page 381 of the Jacking and Changing
19 of Tire section, it repeats the exact words
20 inside a warning box that are used on the very
21 first warning box in the Jacking and Tire
22 Changing section, correct?

23 A. I believe that's correct, the first
24 bullet in that page 376, I believe that's
25 correct.

1 Q. But those words are, been reproduced --
2 just the first bullet of the three bullets, is
3 reproduced inside a warning box on 381, correct?

4 A. Yes, sir.

5 Q. And under that it says, If either front
6 tire is flat, it may be necessary to jack up the
7 vehicle to remove the contact spare tire covering
8 assembly from under the vehicle. Refer to Jack
9 Engagement locations in the following steps for
10 Proper Jack Placement, correct?

11 A. I believe you read that correctly, yes,
12 sir.

13 Q. Okay. So the Jack Engagement
14 instructions are on the next two pages, next
15 three pages, correct?

16 A. Well, I believe that the diagram appears
17 on page 383, and 384 there is some description
18 verbally. And page 382 just kind of generally
19 refers that there are two engagement locations on
20 each side of the body.

21 Q. Okay. So in terms of the jacks, the
22 instructions that are -- that are provided on
23 jacking of the vehicle are on pages 382, 383 and
24 384, correct?

25 A. In terms of engagement, that's correct.

1 Q. All right. And the diagram that's on
2 383 shows a jack with the sill located
3 immediately above a pivot point on a jack,
4 correct?

5 A. I think I understand what you're asking
6 me. But it looks like there is a pin on the jack
7 head. I don't know if somebody would look at
8 that and think that's a pivot head, but there
9 seems to be kind of a rivet and it appears kind
10 of more in line with the flange one way or
11 another, I think that's correct. I understand
12 people have talked about that, and I don't
13 dispute that.

14 Q. Wait. What did you call that, little,
15 round object again? You called it a --

16 A. I think somebody might look at it and
17 think it's kind of like a rivet.

18 Q. Okay. So you're looking at this
19 diagram, you see that there is a rivet on the
20 side of the jack head and that the sill seems to
21 be engaged on top of that jack just above the
22 rivet, correct?

23 A. Well, the rivet is a little hard to tell
24 from the illustration, but it's, you know, close
25 to if not in line with the civil flange. But I

1 think the illustration shows the sill flange
2 coming down into a channel on the jack, so that's
3 how I would describe it.

4 Q. And the sill flange seems to be
5 approximately over the rivet head?

6 A. The pen -- yes, I think the pen is, you
7 know, close to the sill flange in this
8 illustration in terms of, you know, I think
9 people talk about that and described it. I don't
10 think it's a major reference point for
11 individuals, but in this illustration, does it
12 look, you know, at least close to the sill
13 flange, you know, at least in this kind of
14 illustration, I think it does.

15 Q. And would you agree in this illustration
16 the wide, flat part of the jack head does not
17 appear to be in contact with the underside of the
18 sill?

19 A. Not in this snapshot, right. I mean I
20 think it's -- it's showing how the sill flange --
21 it's kind of showing what is being described on
22 the next page in that the sill flange is
23 engaging, going into this channel. And it
24 doesn't look like in this illustration that kind
25 of the flat jack head has come into contact with

1 the underbody yet, but it's raising up.

2 Q. Okay. But in this illustration, the
3 sill flange is already seated in the bottom of
4 the -- what you described as the little channel
5 above the rivet head, correct?

6 A. I don't think -- I don't think I would
7 agree with that. It looks as though it's getting
8 close to the bottom, but I don't think you could
9 look at this and determine, you know, is that
10 bottomed out or not.

11 Q. All right. Now, you've seen pictures of
12 the actual jack that are provided with the
13 vehicle, have you not?

14 A. I've seen photos of the subject jack.
15 I've seen and used an exemplar jack with the
16 exemplar vehicle, and I have obtained an exemplar
17 jack since the time of my report.

18 Q. All right. This is the subject jack.
19 Can you see it?

20 A. I mean to some extent, yes, sir.

21 Q. And is this jack similar to the exemplar
22 jack you had?

23 A. I believe so. I mean from the side
24 profile, I think it looks similar.

25 Q. And you agree that this jack, the jack

1 head of this jack, is not the same as the jack
2 head in the illustration on page 383?

3 A. I've heard people describe, and I don't
4 dispute there are some, you know, slight
5 differences, but I think as I talk about in my
6 report, that this is an illustration and not an
7 attempt to be, you know, a CAD drawing or a
8 photograph.

9 But, yes, you can point to some things
10 and say this looks a little bit different than
11 what you see in a physical drawing, yes, sir.

12 Q. Then if Mr. Richardson attempted to use
13 the jack that was provided with the vehicle in
14 the same fashion as is shown in the illustration
15 on page 383, do you have a complaint about him
16 attempting to do that?

17 A. If he attempted to use it as
18 illustrated, I think when you attempt to do that,
19 you would seat the flange inside the channel on
20 the jack head. I think it would look like -- and
21 I've talked about this in my report and have some
22 photographs to kind of show, that would be what
23 has been, I think, identified and agreed as
24 proper engagement.

25 In terms of the kind of alternative of

1 what Dr. Householder has proposed, I would not
2 characterize that as similar to this
3 illustration, and so I don't -- you know, I would
4 not characterize it in that way. So when you say
5 similar to the illustration, to me that means
6 having it properly engaged as has been talked
7 about by witnesses.

8 Q. What do you -- how do you describe or
9 define the word "engage"?

10 A. Well, I think in this context, it's
11 talking about the flange coming down into this
12 channel, so it's kind of locking in or
13 interlocking in the channel. I don't know -- you
14 know, obviously there can be, you know, to some
15 extent multiple definitions. I mean if you get
16 engaged, you're usually talking about marriage.
17 But if I'm engaging, people are listening to me.
18 But I think when you're talking about mechanical
19 engagement, you're talking about, you know,
20 it's -- it's, in fact, kind of in between or
21 inserting into in a way like that. I mean that's
22 just my kind of general description in trying to
23 describe it.

24 Q. All right. So if you turn to page 384,
25 item 6, it says, These locations are on the sill

1 flange of the body and consist of a pair of
2 down-standing tabs. So that sentence is trying
3 to tell you where along the sill flange you're
4 supposed to lift, in between the tabs, correct?

5 A. Yes, sir. It's referring to the
6 illustration that's labeled Jack Engagement
7 Locations. So that's what refers to as "these
8 locations."

9 Q. And then the next sentence says, The
10 jack is to be located, engaging the flange
11 between the pair of tabs closest to the wheel to
12 be changed.

13 So that -- the words are you put the
14 jack -- I guess that means the jack goes into the
15 two down-standing tabs and is supposed to engage
16 the flange between those pairs, right?

17 A. Yes, sir. It's giving you info- -- I
18 guess kind of two pieces of information there,
19 you know, where relative along the body of the
20 vehicle are you going to place your jack as you
21 raise it up, how should it actually come into
22 contact with the vehicle itself, and it's talking
23 about engaging the flange. So I think it's kind
24 of relative on the vehicle as well as relative to
25 the jack and the flange itself.

1 Q. So now where, if anywhere, in the
2 instruction manual does the instruction manual
3 define what is meant by "engaging the flange"?

4 A. I don't think there is a definition of
5 it in terms of describing it, I think they do it
6 verbally, you know, in writing, as well as
7 through the illustration that we looked at.

8 Q. The flange that you -- your
9 understanding of the sentence is they're talking
10 about the sill flange still, correct?

11 A. Yes, sir. They describe the flange as
12 having the down-standing tabs, and it's my
13 understanding that's what has been referred to as
14 the sill flange.

15 Q. And then it says the jack is to be
16 located engaging the flange between the tabs
17 closest to the wheel to be changed. And engaging
18 the flange is not defined anywhere, is it?

19 A. There's not a digitally verbal
20 definition, there is an illustration showing that
21 the flange itself inserting into the groove or
22 engaging into the slot.

23 Q. Now, on the jack that was actually
24 provided with the vehicle, it has -- it has
25 little sideways slots on the top of the jack

1 head, doesn't it?

2 A. No, sir. I think -- I saw what you were
3 pointing to and I would describe those more kind
4 of as dimples. They don't go across the body of
5 the jack head, you couldn't insert anything in to
6 those. There is dimples on both sides, but there
7 is nothing connecting them.

8 Q. Where, if anywhere, do the instructions
9 use the word "insert"?

10 A. As it relates to this engagement,
11 they're calling it, you know, engage or
12 engagement, they don't say "insert." That's my
13 word, you know, in our discussion today.

14 Q. I see. So that's not in the instruction
15 insert anywhere?

16 A. Well, as it relates to No. 6, I don't
17 think it says "insert." Obviously, you just read
18 the sentence where it talks about engaging the
19 flange, it talks about, you know, and refers you
20 to the illustration. But in describing that,
21 yes, I said "insert."

22 Q. Yes, but if you look at all of the words
23 in instructions 5, 6 and 7, the word "insert"
24 never appears?

25 A. I think that's correct, yes, sir.

1 Q. And there in 5, 6 and 7, there is no
2 definition of "engaging the flange"?

3 A. Not a verbal definition, if that's what
4 you're asking. As I said, there is an
5 illustration depicting that the flange going into
6 the slot, that that's -- you know, then they
7 describe that verbally as engaging the flange in
8 No. 6. But if you're simply asking if there is
9 another sentence defining "engage," no, sir.

10 Q. And in the illustration that you're
11 referring to is entitled Jack Engagement
12 Locations, not Jack Engagement --

13 A. I missed the last -- I'm sorry.

14 Q. Here on page 383, all of the words on
15 that page are Jack Engagement Locations, correct?

16 A. Well, that's the title of the
17 illustration. There is words in terms of the
18 section heading. But in the title of that
19 illustration, you're correct.

20 Q. And the locations that are indicated on
21 that drawing are behind the front wheel and in
22 front of the back wheel in between down-standing
23 tabs, correct?

24 A. Yes. I mean I think I understand your
25 question. And, yes, they're showing there are

1 two locations on this side (indicating). The
2 preceding instruction explains that there are two
3 on both sides, so four total. And then they have
4 -- they don't show the jack engaging in the kind
5 of overall picture of the minivan, but in the
6 exploded view, they now have added the jack and
7 they're showing how it, in fact, engages with the
8 sill flange.

9 Q. But the picture of the jack, we agree,
10 in that little blown-up circle on page 338, that
11 jack head is different than the jack head that
12 was delivered with the vehicle?

13 A. I think we've talked about you could
14 point to things and say there are some
15 differences. I think there are definitely
16 similarities. I think based on the information,
17 not only the illustration and the written
18 instructions, but a physical interaction
19 attempting to do this, I think users can
20 understand it. But could you point to something
21 and say this looks a little different than the
22 physical jack, sure.

23 Q. And whether the users can understand it
24 or not, that's actually going to be up to the
25 jury who is a representative group of possible

1 users of this instruction manual, correct?

2 A. I mean I don't know who the jury pool
3 will be, but they're, you know, ordinary people
4 obviously. And will they ultimately -- you know,
5 I think this kind of goes back to that line of
6 questions, sure. Are they going to come to their
7 ultimate decision if this goes to trial? You
8 bet.

9 Q. Is there any reason in your mind why
10 Chrysler failed to say that the flange -- the
11 sill flange has to be inserted down in to some
12 portion of the jack head?

13 A. Well, I mean I disagree that it's a
14 failure. I think I understand your question.
15 And, you know, could you word it differently? Of
16 course you could. I think we talked about that
17 earlier in this deposition, is there's not one
18 right way. But I don't think there is anything
19 deficient in terms of the instructions when you
20 look at it again. Not only the illustration, not
21 only the verbal or written instructions, but also
22 the physical interaction afforded by the tool
23 itself in a vehicle. I don't think -- you know,
24 I don't know see a basis to say it's confusing,
25 particularly when you look at what is the

1 alternative. And the alternative is proposed by
2 Dr. Householder, and I kind of characterize it as
3 trying to balance a knife edge on top of a seesaw
4 because the head does pivot because it's a very
5 small interface, for lack of a better term, of
6 the sill flange resting on top in his high
7 hypothesis. So that does not look a like the
8 illustration. And so I guess I'm left with, you
9 know, looking at it, I don't see any basis to say
10 -- and he hadn't produced any data or studies or
11 any information again to kind of support his
12 hypothesis in that regard.

13 Q. You agree that the choice of phrase of
14 engaging the flange is a poor choice of words?

15 A. No, sir, I disagree for the reasons
16 we've talked about today.

17 Q. Don't you agree that you can engage two
18 surfaces on a knife edge?

19 A. I don't think I would call that engaged,
20 I would call that more precarious. I think a
21 knife's edge weighing down with a vehicle on top
22 of a horizontal surface, whether it pivots or
23 not, that could be precarious.

24 Q. Do you think of "engaging the flange" as
25 an -- to be an engineering terminology?

1 A. I don't think I would characterize it
2 that way. I mean "engaging" is I don't think a
3 technical term. But in terms of, you know -- I
4 think the sill flange, would everybody know what
5 the sill flange is? Maybe not before they look
6 and read the illustration and look at the
7 vehicle, but I think you can discern that. I
8 think you can understand that given the context.
9 I just don't think the phrase "engaging" is
10 somehow technical or likely to be under -- past
11 the understanding of an expected reader.

12 Q. You don't disagree that the expected
13 reader -- that the jury is expected to be the
14 expected reader at the end of the day?

15 A. Well, the owner of the vehicle, but, you
16 know, could that be somebody off the jury? Sure,
17 it could be, I mean as far as I know.

18 Q. So you're not going to testify at trial
19 anything about the dimensions of the vehicle or
20 the manner in which the accident actually
21 occurred, are you?

22 A. I think that's correct. If at all, it
23 would be tangential. You know, I described in my
24 report that I was able to pull it out on the
25 exemplar. But I'm not going to come in and talk

1 about specific numbers or measurements in terms
2 of clearance. I think there are others looking
3 at that issue. I think the only other thing just
4 to be, you know, inconclusive to respond to your
5 question, to the extent that Mr. Sullivan has
6 said there needed to be some additional
7 information about sagging springs and that needed
8 to be more clear, I disagree with that. So it
9 could come up in that context, but not a
10 biomechanical analysis of clearance or the
11 position of Seanese, no, sir.

12 Q. You personally don't know of any
13 specific evidence that Seanese Richardson
14 believed that he was doing anything dangerous
15 when he reached beneath the vehicle, do you?

16 A. I don't have any independent knowledge.
17 I think we talked about that earlier. No one can
18 say what was specifically in his mind. I do
19 think that all of the Richardsons had agreed that
20 it would be dangerous to get under a jacked-up
21 vehicle, and so the family didn't lack that
22 knowledge, I guess in terms of the brother or
23 mother or father. But nobody -- I haven't seen
24 any evidence telling us specifically what
25 Seanese knew or decisions that he made.

1 Q. The brother and the mother and the
2 father were asked that question after the brother
3 and the son was rendered functional quadriplegic
4 for the rest of his life. Do you think that
5 might have had an impact on their belief on
6 what's dangerous and what's not dangerous?

7 A. Purely having a tragic accident can
8 happen -- could affect your hazard perception,
9 but there was not a response that, you know, I
10 didn't know that before but we do now. There was
11 no explanation. They agreed that it was
12 dangerous and didn't suggest that they did not
13 recognize that before his accident.

14 So my reading of the testimony didn't go
15 along with that. Might they view it as more
16 dangerous today after this accident, sure, that's
17 certainly the likelihood.

18 Q. Do you believe this location of the
19 spare tire is inherently dangerous?

20 A. No, I don't think it's the location of
21 the tire, I think the danger is associated with
22 getting underneath a raised vehicle on a jack.
23 And I think that's independent of the tire
24 location. We see auto manufactures warn about
25 this risk. I would say almost universally,

1 regardless of where the tire is located, there is
2 warnings not to get under the raised vehicle.

3 Q. Your testimony has been limited in the
4 past, hasn't it?

5 A. I didn't catch all of that. I'm sorry.

6 Q. Your testimony has been limited by
7 Courts in the past, has it not?

8 A. Yes, sir, I think there have been
9 occasions.

10 Q. Quite a few actually, right?

11 A. I don't know how many. I can think of
12 at least a couple.

13 Q. Do you have recall the case entitled
14 Graves versus Toyota Motor Company?

15 A. Yes, sir.

16 Q. And do you recall that your testimony
17 and conclusions were concluded to be too
18 speculative to pass either the reliability
19 threshold of rule 702 or to be helpful to the
20 trier of fact?

21 A. I don't recall specific language. My
22 recollection is that opinions related to driver
23 behavior or driver distraction were excluded.
24 And in part that was related, or I do would say
25 it's based on the fact that testimony from the

1 investigating police officer was ruled
2 inadmissible. So that took away, you know, a
3 portion for the basis of my opinions. You know,
4 I was not precluded from offering testimony about
5 warnings or instructions, as I recall.

6 Q. Do you recall the Watkins versus Vestal
7 Manufacturing Company case?

8 A. Not by name, I need more information.

9 Q. That was a products liability case in
10 the Northern District of Georgia. Your lawyer --
11 you were hired by it was either Gary Seacrest or
12 Douglas Dumont?

13 A. You know, I do remember that case
14 because that was that -- Ryan Seacrest's dad was
15 the lawyer. Yes, I remember that.

16 Q. And do you recall you were not permitted
17 to testify in that case?

18 A. No. My recollection was there was some
19 limitation related to an opinion. And as I
20 recall, I don't think it was an opinion I was
21 intending to offer, but, you know, it's been a
22 while.

23 Q. How about the case American Family
24 Mutual Insurance Company versus Techtronic?

25 A. I don't know. What product was

1 involved? The name is not ringing a bell.

2 Q. It was a power stroke product?

3 A. If it was a pressure washer case, Power
4 Stroke was maybe the brand of the pressure
5 washer? Does that sound right? I recall that
6 case that involved a pressure washer. And I
7 think, as I recall, the judge ruled there
8 wouldn't be any testimony from any
9 warnings-related experts in that case. And I
10 think that was in part because the warnings issue
11 had become quite narrow by the time of trial.

12 But maybe I'm misattributing, but that's
13 my recollection.

14 Q. Do you recall that you were not allowed
15 to testify about what would be a common
16 understanding of warnings because that was within
17 the understanding and knowledge of an average
18 juror in that case?

19 A. I don't recall any warning from a ruling
20 or order. My general recollection was that the
21 scope of the warnings-related issues had become
22 very narrow. You know, it wasn't as inclusive as
23 when the case started. And I think that was part
24 of the reason that the judge said that they
25 wouldn't have, you know, either the plaintiff's

1 or the defense's warnings expert testify. But I
2 just couldn't tell you that I recall language
3 from an order.

4 Q. And then in the estate of Munoz versus
5 Ford Motor Company, there were questions asked of
6 you regarding Chrysler's funding of studies. Do
7 you recall those questions?

8 A. No, but I don't -- you'd have to refresh
9 my memory on the case. The name doesn't ring a
10 bell.

11 Q. You just don't even recall the case at
12 this time?

13 A. Just by the caption, no, sir. You would
14 have to tell me more.

15 Q. Which cases do you recall today in which
16 your testimony was limited or prohibited?

17 A. I recall the pressure washer case, and I
18 recall the Graves versus Toyota case. I think
19 there may be a case where there was an order
20 trying to prevent duplication. There was another
21 human factors expert retained by the same client,
22 and the judge wanted to prevent us from
23 overlapping, so he was addressing more of the
24 physical interaction and I was addressing the
25 warnings and instructions. And as I recall, the

1 plaintiffs had made a motion to exclude me
2 entirely but the judge said no, that rather
3 they'll just make there's no overlap.

4 So those were the ones that come to
5 mind.

6 Q. You agree when drafting instructions,
7 those -- one of the important goals to fulfill is
8 to avoid ambiguity, correct?

9 A. I think that's a fair statement as a
10 very broad general statement. You know, you have
11 to look at what is the information, would it be
12 considered ambiguous, what's the context, how is
13 that information being provided. But as a
14 generalization, would I tell people you want to
15 avoid ambiguity, yes, but it doesn't mean you
16 have to be necessarily so specific or explicit as
17 to provide, you know, more information than you
18 need.

19 Q. Do you have any complaint that there
20 were too many warnings provided in this owner's
21 manual?

22 A. No, sir, I don't.

23 Q. Do you think there were too few warnings
24 in this owner's manual?

25 A. No. But in fairness, I have tried to

1 focus on, you know, the safety information
2 related to the issue in this case. I haven't
3 tried to go through and evaluate all of the
4 aspects of this owner's manual, like about
5 airbags or how to wear the restraint system. I
6 haven't focused on that because it wasn't an
7 issue.

8 Q. Have you, as part of your work for
9 manufacturers, created your own illustrations or
10 drawings?

11 A. I don't recall doing a lot of
12 illustration work. I mean generally it would
13 probably be talking to graphic designers. I have
14 done a little bit when we were -- when I was
15 working with trade association on a particular
16 symbol to be used related to injuries using that
17 power tool, but that's something I would probably
18 contract out with a graphic designer or talk to a
19 graphic designer in-house at a trade association
20 or manufacturer or whomever. So it's not
21 something I would typically do. I might provide
22 input but not do the design work myself.

23 Q. You provided on page 9 of your report a
24 sentence that -- just listen to it because you'll
25 probably remember it, That the nature of the

1 hazards and consequences of being struck by a
2 vehicle falling from a raised jack are not
3 technical and do not require specialized training
4 or knowledge to recognize.

5 Is that your own writing?

6 A. I believe so. I've certainly used, you
7 know, similar language, I think, in other
8 reports, not specifically a vehicle falling from
9 a raised jack, I don't recall if I'm used that
10 before, but talking about language not being
11 technical or requiring specialized knowledge,
12 I've used similar language, at least in other
13 reports.

14 Q. And so for that reason, you would agree
15 that you don't need to be an expert to talk about
16 that hazard?

17 A. Yes, I don't -- I mean I guess I'm
18 trying to understand what you're saying. I think
19 it will be helpful to have testimony from human
20 factors experts as it relates to evaluating
21 warnings and instructions, but just simply a very
22 narrow issue of, you know, understanding the risk
23 and is it one that people don't need specialized
24 training to require, I don't think that takes
25 expert testimony probably, but what is the

1 relevance of that? How does that concept then be
2 applied to the evaluation of warnings
3 instructions. I think that's, you know, where a
4 human factors expert can provide some benefit.

5 Q. On page 10 of your report, you said,
6 Similarly, familiarity and prior experience with
7 a product are also recognized as factors
8 decreasing the individual's hazard perception.
9 That is as people use product without a safety
10 problem, they have to become more confident in
11 their interactions and less concerned about
12 potential dangers.

13 That's part of your opinion, right?

14 A. Yes, sir. I'm describing findings in
15 the research literature. But yes, sir, I would
16 agree with that.

17 Q. All right. But you're not claiming that
18 Seanesee was familiar with the jack and that he
19 suffered from a decreasing hazard perception
20 because he was so familiar with the jack, are
21 you?

22 A. We don't know his specific knowledge. I
23 mean I've said that in my report, we've talked
24 about that today. We do know that he has been
25 around or involved in two other prior tire

1 changes. So I think these are things the jury
2 should contemplate and think about. But in terms
3 of can I come in and say, you know, specifically
4 what his knowledge was, no, but we know he had
5 been involved in prior tire changes.

6 Q. So we don't know how many months or
7 years elapsed between those tire changes, do we?

8 A. I don't recall the specific dates. At
9 least as I sit here today, I don't recall if that
10 was asked. But in terms of, you know, the sort
11 of knowledge and training or experience
12 generally, I think that was explored in the
13 depositions. But I guess no, I don't -- at least
14 I don't recall. I'll defer to the testimony. I
15 don't recall if the dates were identified.

16 Q. But you're not claiming that Seanesee
17 was so familiar with the jack that he would have
18 a decrease in hazard perception, are you?

19 A. I'm saying we don't know. I'm saying we
20 understand, you know. And by "we," I mean the
21 folks that participate in research and
22 publication in the area of warnings and responses
23 to warnings, that prior experience and
24 familiarity certainly can have that effect and it
25 can impact how people make decisions and what

1 decisions they actually make. And in this
2 particular case, we know there is prior
3 experience, but fortunately it's unknown what his
4 specific knowledge or attitudes or perceptions
5 were. So I think they're all things for the jury
6 to consider, but I don't think anyone can come in
7 and say he had, you know, this specific thought
8 in mind as we talked about earlier, I just don't
9 think anybody can do that.

10 Q. And you're not saying -- you know of two
11 isolated events where he was present while a jack
12 was used, you're not saying he was using the jack
13 every week?

14 A. Every week, no, sir, that's not my
15 understanding. I think the second -- the first
16 event Mrs. Richardson described primarily the
17 stranger who helped them as doing most of it, the
18 second event, Patrick and Seanesee were involved
19 and is my recollection, Patrick said he didn't
20 use the jack, so that would leave Seanesee. But
21 in terms of using it like on a weekly basis, no,
22 sir, I'm not going to come in and say that.

23 Q. In your next paragraph, you say Injuries
24 from raising jacks with -- from raising vehicles
25 with jacks occur each year with some degree of

1 frequency, correct?

2 A. I think that's a correct statement. I'm
3 just looking in my report to see where that would
4 appear.

5 Q. You said it second to the bottom
6 paragraph on page 10?

7 A. Okay. I see that language, yes, sir.

8 Q. And you believe that statement, jack
9 accidents are frequent?

10 A. No, I didn't say "frequent," I think
11 they're rare when you compare them to motor
12 vehicle crashes, but there's some frequency.
13 This study published one estimate based on Neiss
14 data, N-E-I-S-S, but I don't think it's something
15 I would characterize as necessarily frequent when
16 you look at injuries and accidents associated
17 with motor vehicles overall.

18 Q. How many -- how many jack accidents did
19 it claim have occurred in whatever time period it
20 was looking at?

21 A. From memory, I think it was about a
22 hundred, something in that neighborhood.

23 Q. Per year?

24 A. I think it was a year long data
25 collection.

1 Q. Okay. And then at the bottom of that
2 paragraph, would you agree that the numbers that
3 you provided are the -- in 55 percent of the jack
4 accidents, injury sustained are moderate to the
5 severe?

6 A. So including the severe with moderate,
7 that it would be 55 percent, yes, sir.

8 Q. So more than half of these jack
9 accidents resulted in moderate or severe
10 injuries?

11 A. I think that would be correct based on
12 the data. I mean obviously I'm just quoting from
13 the NHTSA publication, how they presented it, but
14 I think I understand how you're grouping those
15 categories, and I think your numbers are right.

16 Q. And this is a 1998 NHTSA study, right?

17 A. Yes, sir, publications.

18 Q. Do you know over how many years the
19 study was conducted? Was it more than one year?

20 A. I think I have data -- from memory, I
21 think it was collected for a one-year period. I
22 don't know how long your overall study was in
23 analyzing and dealing with it, but the data said
24 itself, I think it was a one-year period.

25 Q. You provided a quote for the top of page

1 13 from a study, from a McCarthy study from '87,
2 that the results suggest further that in some
3 circumstances, clear and direct constructions may
4 be more effective than a warning in eliciting the
5 desired behavior. Do you agree with that?

6 A. Yes, I do as I've described it. If you
7 read my description, what they are in this
8 particular study, they're really only looking at
9 how it's formatted or highlight. They're not, as
10 we've talked about, truly saying this isn't
11 safety-related information, but they're saying in
12 this particular study, it didn't need to be
13 inside of a box highlighting it as a warning,
14 that embedded safety messages is kind of, I think
15 the term. And this may go back to something we
16 talked about earlier in this deposition, imbedded
17 safety messages. I think that was a common
18 practice, but that term may have come about when
19 the 2006 standard evolved that we talked about
20 earlier or at the very beginning of the
21 deposition. But -- so that was not an uncommon
22 practice necessarily, but that term may not have
23 been out there. So at the time of this report or
24 this study by McCarthy, I would say I don't think
25 embed and safety information was a term of art.

1 They seem to be distinguish -- if you read the
2 study, that's really what they're distinguishing
3 is, information kind of in a paragraph versus
4 inside a box to look at and be formatted more as
5 a warning in terms of just formatting, not the
6 content, but the formatting.

7 Q. And I'd like refer you to the bottom of
8 page 15 of your report. On the last couple of
9 lines, you say given the information in the
10 manual and physical queues of the tools, I am not
11 aware of any basis to suggest that users in
12 general would mistakenly perceive the jack handle
13 as spare tire hook.

14 How often are you relying on the
15 physical queues of a tool in order to make your
16 opinion?

17 A. I'm not sure I follow that question. Do
18 I talk about physical queues of a vehicle or a
19 tool, have I talked about those in other cases?
20 Yes, sir.

21 Q. What do you mean by physical queues of
22 the tools?

23 A. It's what's being described in that
24 paragraph. So that whole paragraph, I'm talking
25 about the differences in appearance and sort of

1 what you can look at and tell in terms of the
2 tools, so that would be physical tool. Would
3 have 45-degree angle on the rounded bar of the
4 jack handle, which doesn't clear the body of it,
5 you know, it's kind of like a cupped hand almost,
6 would that be sufficient to use as a hook by
7 contrast looking at the physical design of the
8 tire hook provided by Chrysler? So it kind of
9 carries on, and I have the illustration that's
10 referenced in figure 4 on the next page. But
11 it's not more than what what's being described in
12 the section of the report.

13 Q. Would you agree that on normal user is
14 going to end up having to try to look at physical
15 queues from the tools when they're trying to
16 understand the user's manual?

17 A. Well, you're going to. I mean it's not
18 that it's -- there is no way around it. You're
19 using -- you're picking up the jack, you're going
20 to raise it, you're going to use the tool, you're
21 going to use the T-wench handle. You're
22 physically going to use and interact with those.
23 And so that's part of, you know, the overall
24 evaluation when you look at warnings
25 instructions. You have a to not just look at the

1 words that are on the paper or the illustration,
2 but you have to think about users are going to be
3 physically interacting with these portions.
4 That's the interface part of human machine
5 interface.

6 Q. And so, for example, when the diagram
7 given by Chrysler doesn't match the jack head
8 that's given by Chrysler but they both have
9 something that you might call a dent in them,
10 those are the kind of physical queues that you're
11 saying that are left to the interpretation of the
12 user, correct?

13 A. As I'm physically interacting with the
14 jack head and I'm raising it up and trying to
15 engage the sill flange, I'm looking at the
16 illustration, I've read the words. I'm also
17 relying upon what I'm seeing and how it's
18 interacting, sure, I think that's part of it.
19 There is no way around it. And so does it look
20 similar to the picture? I think what we've all
21 described as proper engagement, definitely in my
22 mind looks like the illustration. And what
23 Dr. Householder has proposed, does not look like
24 the illustration.

25 Q. However you and Dr. Householder clearly

1 disagree about that opinion, don't you?

2 A. You know, I'll defer to Dr. Householder
3 to explain his opinions, but he suggested that as
4 a possibility. I just -- it's not clear to me
5 what his basis really is for that.

6 Q. Toward the top end of the first
7 paragraph at the top of page 21, you suggest that
8 a certain placement of the jack would obviously
9 allow for more surface area contact between the
10 jack and the vehicle. You're not suggesting for
11 a moment that your normal consumer would think
12 larger surface area contact is an obvious desire,
13 are you?

14 A. Oh, sure. I think people understand
15 having more contact with something you're trying
16 to lift would aid in stability. When you're
17 reading warnings and instructions that warn you
18 about a risk that it can fall and that, you know,
19 more height is less stable, that you want to have
20 more contact between the surface areas as opposed
21 to kind of the knife's edge on the, you know,
22 seesaw, I think by comparison users would expect
23 or would want to see more engagement, that they
24 would associate that as more stability. So I
25 don't think that's a technical concept.

1 Q. So because it's not a technical concept,
2 it's not a concept that you think needs expert
3 opinions at all?

4 A. I think in talking about this issue, the
5 illustrations, I think you want to think about
6 what is the physical interaction and how do
7 people interact not just with the illustration
8 alone, but looking at that and thinking about it.
9 So I think it's something I would mention, but
10 does it require an expert to necessarily say more
11 surface contact is better? No, I'm not saying
12 that. But how is it applied? What is the
13 impression of that in the evaluation of warnings
14 and instructions in this case, I do think there
15 is some value.

16 Q. You agree that in general, engineers
17 would have more knowledge about what's the
18 benefit of the surface area -- a larger surface
19 area contact than would a laymen, right?

20 A. I mean obviously engineers are going to
21 have some specific knowledge and training in
22 terms of engineering and doing calculations and
23 looking at force and area, you know, those sort
24 of things. But in terms of when I'm trying to
25 lift up a car, that I would want more surface

1 area rather than the knife's edge, I don't think
2 that takes an engineering degree.

3 Q. When considering what are good
4 instructions and what are bad instructions, what
5 would you say is a bad instruction?

6 A. Well, I think we kind of go back to that
7 criteria, right? So instructions or, you know,
8 safety messages, so instructions that relate to
9 safety, they need be capable of being noticed and
10 read, they need to be capable of being
11 understood, and they need to be capable of being
12 followed. So if you can't understand the
13 information or it's impossible to follow it, you
14 know, I would say that's a bad instruction. You
15 know, I think that the relevant instructions and
16 safety information in this case meet those
17 criteria, but I think if, you know, that's
18 probable the best description I can give you.

19 Q. What would you say is a bad warning?

20 A. I think it would fall into the same
21 category. It could be, you know, you're unable
22 to -- or unlikely to notice it because of, you
23 know, a variety of reasons, you can't understand
24 it when you read it and you can't follow it. I
25 mean that would certainly sound like a bad

1 warning to me.

2 Q. As a general rule, do you agree that
3 clear instructions are the goal?

4 A. When you're writing instructions, do you
5 want them to be clear so that people can be clear
6 and follow them, yes, sir. If that's what you're
7 asking, then, yes, I agree.

8 Q. And do you agree that pictures and
9 graphics need to help explain what the next steps
10 would be?

11 A. If you provide illustrations they should
12 be able to be understood in the context. And by
13 "context," I mean the wording that was provided
14 as well as the physical interaction that's
15 afforded. You know, so in that way I would
16 agree. But it doesn't mean that an illustration
17 always has to in- -- precede an instruction. You
18 know, you said the next information. So I
19 wouldn't agree it always has to proceed, but
20 should it be helpful in terms of communicating
21 information, sure.

22 Q. What problems arise due to bad
23 instructions?

24 A. I think it's such a broad question. It
25 could be a misunderstanding of what to actually

1 do. If we're just talking about instructions
2 that are not related to safety, then there is not
3 a risk of harm, either personal injury or
4 property damage. If we're talking about
5 instructions that are safety related, then there
6 couldn't be a risk of physical harm or property
7 damage if the safety-related instructions are
8 deficient.

9 Q. What problems arise from pictures that
10 don't match the provider?

11 A. Again, it would depend. You would have
12 to look at the picture and the say, you know,
13 does this relate, is it a problem or not? And so
14 you have to go through an analysis. What is the
15 information that's available, the context? What
16 is the written instructions? What is the
17 illustration really looking? Do we think these
18 differences are material that someone would rely
19 on and use this illustration? You know, is it
20 trying to just illustrate a concept? It doesn't
21 have to necessarily be a true fidelic (spelled
22 phonetically), you know, photograph. You know,
23 you have, I think, more license with an
24 illustration than if you provided a photo or
25 something like that. And so I think it becomes a

1 unique analysis, let's look at the illustration
2 at issue, let's look at the available
3 information, what's the product, what's the
4 interaction afforded. So it may or may not be an
5 issue.

6 Q. But one of the problems that I arises
7 from illustrations that don't match the product
8 is then it becomes a requirement on the consumer
9 to try and figure out more about what they're
10 supposed to do because they provided an
11 illustration as an instruction that doesn't match
12 what they have in front of them, right?

13 A. I'm just trying to make sure I
14 understand the hypothetical. If we assume an
15 illustration is deficient and it's creating some
16 confusion for a user, do they then need to try
17 and figure out what to do? I mean based on my
18 understanding of your question, it's kind of
19 giving your its own answer. Yes, they'd have to
20 figure out. If there's not information in
21 written instructions, they're information in
22 context, but, you know, like I said, it really
23 becomes a unique analysis that you have to look
24 at an illustration of product and the context.

25 Q. In this case itself, we have a jack head

1 that's different from an illustration and we have
2 the use of engagements or to engage the jack head
3 with the skill -- with the sill flange but there
4 is no definition of what they mean by "engage."
5 So you don't -- clearly you're being paid by
6 Chrysler not to see that as ambiguous, correct?

7 MR. BOORMAN:

8 Objection. First of all, he is
9 asked -- that's a complex question. It's also
10 argumentative. He's answered that questions,
11 parts of that question a couple of times.

12 But answer if you can.

13 THE WITNESS:

14 Yes, I'm not paid by Chrysler just
15 to tell them what they want to the hear. I mean
16 I would reject that part of it.

17 But in terms of do I think there is
18 some deficiency in the instructions or the
19 illustration, no, I think it's substantially
20 similar to what you see in real life. I've
21 provided photographs and illustrations and some
22 annotations to those in my report. I tried to
23 talk about the reasons, you know, with you today
24 as well in my report. Obviously, I think you
25 understand, you know, that I disagree with

1 Dr. Householder.

2 BY MR. DIDRIKSEN:

3 Q. You do agree that there is an interplay
4 between unclear instructions and mistakes
5 occurring, correct?

6 A. I mean there can be. If an instruction
7 is unclear, could that result in someone acting
8 contrary than you intended? Sure. I mean that's
9 a possibility. But you have to look at each
10 incident and each set of instructions and the
11 context on a unique basis.

12 Q. In a similar way, you would agree that
13 there is interplay between unclear warnings and
14 the occurrence of injuries, correct?

15 A. That's a possibility. Just because
16 information is characterized as unclear, doesn't
17 mean that people acted in an unsafe way. If
18 they're unclear and don't know what to do, you
19 know, and they know that safety is on the line,
20 then they should get additional information.
21 They should get clarity before proceeding. So
22 just saying something is unclear doesn't mean
23 people necessarily act in an unsafe way or
24 necessarily are injured.

25 Q. However, unclear instructions can't --

1 or unclear warnings can lead to injuries, I'm
2 sure you agree with that?

3 A. I mean it could. You could come up with
4 a hypothetical where I would agree with that,
5 sure.

6 MR. DIDRIKSEN:

7 Is this a good time for everybody
8 else to take a ten-minute break?

9 THE WITNESS:

10 Sure.

11 MR. BOORMAN:

12 Fine with me. See you in ten
13 minutes.

14 (A short recess was taken.)

15 BY MR. DIDRIKSEN:

16 Q. So did you examine or look at any other
17 owner's manuals for Chrysler Stow 'n Go Minivans
18 from the years 2007 to 2021?

19 A. I'm trying to recall if anything was in
20 my file. There wasn't -- if I saw some it's not
21 registering with me. I'm not remembering. But
22 I'm trying to look at my file listing to see if
23 there is anything logged in.

24 I don't see any logged in to my file.
25 And if they were, I mean I'm just not recalling

1 having reviewed them.

2 Q. Do you recall reviewing CARE reports of
3 Chrysler Minivan jack failures complaints?

4 A. I think I looked as some as I was
5 reading the testimony of one of the Chrysler
6 witnesses. But, you know, I didn't spend -- I
7 didn't do a deep dive, I wouldn't say, but I
8 looked at them and read the testimony.

9 Q. Did you make any conclusion related to
10 those jack-failure complaints?

11 A. No. You can't really use customer
12 complaint or contact like that, that sort of data
13 or information in the analysis of warnings of
14 instructions. It rarely provides any insight.
15 You know, my recollection is there are a number
16 of, I think, burns that were discussed, but I
17 didn't do any sort of statistical or deep dive on
18 the data, just because I didn't see anything that
19 would provide really any insight and that not the
20 kind of data set that usually is helpful.

21 Q. So you would think that a series of
22 accidents involving the jack shouldn't be noticed
23 to the manufacturer that they might have a
24 problem with their instructions?

25 A. No, I don't think you can conclude that

1 there is an issue with the instructions. You
2 know, as I think the Chrysler witness explained,
3 a number of them were activities that were
4 clearly contrary to available warnings and
5 instructions. So just because someone acted in a
6 way that violates a warning, doesn't mean you can
7 conclude that the warning is at fault or
8 deficient. I think that analysis is independent
9 of have any accidents or, you know, incidents
10 ever occurred.

11 Q. Have you performed any focus groups or
12 other group testing, any of the language that
13 you're forming opinions about herein?

14 A. You broke up a little bit. But have I
15 done any focus group or other data collection as
16 it relates to the relevant warnings and
17 instructions in the subject manual? No, sir.

18 Q. What is the total of all of your
19 invoices to Mr. Boorman or FCA?

20 A. Those invoices I believe were produced.
21 I didn't add them up, so I don't know as I sit
22 here. It's probably a little bit bigger file
23 than usual, and, you know, I spent a fair amount
24 of time on it. But I don't know what -- whatever
25 has been produced should be accurate.

1 Q. What is your billing rate for them?

2 A. Mine is 385.

3 Q. Who's David Shattock?

4 A. He is my research assistant that is
5 helping me on this particular case.

6 Q. What's his background?

7 A. He has a degree, I believe, from Auburn
8 but he had a strong sort of research background
9 and experience before he came to work at Dorris &
10 Associates. He's been with us for several years
11 now, and, you know, so we have trained him
12 specifically kind of in what we want in terms of
13 job duties here. But we look for folks that have
14 some strong experience in terms of doing
15 research, findings documents, being able to
16 review documents and those sort of thing before
17 they come to work with us.

18 Q. Is he is degreed engineer?

19 A. I don't think his degree is in
20 engineering, no, sir.

21 Q. How about Jonathan Dorris?

22 A. He is my brother who works with me at
23 the company.

24 Q. What's his background?

25 A. He has an industrial engineering degree

1 from Georgia Tech.

2 Q. What about Cory Leigh Brown?

3 A. She works in our office and she
4 primarily, you know, for this case was an
5 administrative assistant, so she might be doing
6 scheduling or those sort of things.

7 Q. You think -- do you know whether you
8 were paid for some of your invoices?

9 A. That's a good question. Have we
10 received any payment, I don't know. That's a --
11 that's a great question.

12 Q. One of your latter invoices said that
13 you were at that point owed \$31,500.

14 A. I don't -- whatever you see, you know,
15 the documents should be accurate. Obviously
16 during the COVID pandemic, I know the auto makers
17 were being asked to, you know, go and make, you
18 know, ventilators and things like that, so I
19 don't know if that's affected payment times or
20 anything. But I have not been involved in that
21 piece of it, you know, accounts receivable, so I
22 don't know if we have received any payments for
23 this particular case.

24 Q. Do you believe your firm has charged
25 over \$50,000 for what you've done so far on this

1 case?

2 A. It could be. I have not added it up,
3 but it certainly could be in that ballpark.

4 MR. DIDRIKSEN:

5 Thank you. That's all my questions
6 for today.

7 THE WITNESS:

8 Okay.

9 MR. BOORMAN:

10 Okay. Dr. Dorris will read and
11 sign.

12 (Whereupon the deposition was concluded at 2:44
13 p.m.)

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I, Michelle Vidrine-Corona, Certified Court Reporter in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that (Nathan Dorris, Ph.D.) to whom oath was administered, after having been duly sworn by me upon authority of R.S. 37:2554, did testify as hereinbefore set forth in the foregoing (178) pages; that this testimony was reported by me in the stenotype reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding; that the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board, and that I am informed about the complete arrangement, financial or otherwise, with the person or entity making arrangements for deposition services; that I have acted in compliance with the prohibition on contractual relationships, as defined by Louisiana Code of Civil Procedure Article 1434 and in rules and advisory opinions of the board, that I have no actual knowledge of any prohibited employment or contractual relationship between myself and a party litigant in this matter. I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

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